

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Bodine, Susan
Sent: Tue 10/24/2017 7:34:12 PM
Subject: RE: Briefings
OECA Weekly Briefing (October 25 2017).docx

This may be relevant to his interview tomorrow also

From: Ferguson, Lincoln
Sent: Tuesday, October 24, 2017 3:00 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: Briefings

Thank you!

From: Bodine, Susan
Sent: Tuesday, October 24, 2017 2:59 PM
To: Ferguson, Lincoln <ferguson.lincoln@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: Re: Briefings

Yes

I think Patrick has the close to final version

We know you need by 4

Sent from my iPhone

On Oct 24, 2017, at 2:57 PM, Ferguson, Lincoln <ferguson.lincoln@epa.gov> wrote:

Will you have anything for the Admin's binder for tomorrow re: Enforcement briefing?

Thanks,
Lincoln

Lincoln Ferguson

Senior Advisor to the Administrator

U.S. EPA

(202) 564-1935

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Mon 11/20/2017 9:05:02 PM
Subject: RE: Keystone pipeline leak

Give me a call for the background

Ex. 6 - Personal Privacy

From: Traylor, Patrick
Sent: Monday, November 20, 2017 4:03 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: RE: Keystone pipeline leak

Will do.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

Ex. 6 - Personal Privacy cell)

From: Bodine, Susan
Sent: Monday, November 20, 2017 4:02 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: Keystone pipeline leak
Importance: High

Can you check in again with OCE on Keystone?

Ex. 5 - Deliberative Process

From: Traylor, Patrick
Sent: Friday, November 17, 2017 2:03 PM
To: Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>
Subject: FW: Keystone pipeline leak

Ryan, South Dakota has the lead on responding to the Keystone Pipeline spill (5,000 barrels), and has not requested EPA's assistance. No known discharges to water, no injuries, and no evacuations. We continue to monitor the situation.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Thompson, Christopher
Sent: Friday, November 17, 2017 1:02 PM
To: Traylor, Patrick <traylor.patrick@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Theis, Joseph <Theis.Joseph@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Bohan, Suzanne <bohan.suzanne@epa.gov>; Opekar, Kimberly <Opekar.Kimberly@epa.gov>; Palomares, Art <Palomares.Art@epa.gov>
Subject: Keystone pipeline leak

All: here is a status update on Keystone. SD is leading the response and has not requested EPA assistance. I will let you know if we become aware of any material developments. Thanks, ct

From: Williams, Laura
Sent: Friday, November 17, 2017 10:49 AM
To: Palomares, Art <Palomares.Art@epa.gov>; Thompson, Christopher <Thompson.Christopher@epa.gov>
Cc: Champagne, Kenneth <Champagne.Kenneth@epa.gov>; Bohan, Suzanne <bohan.suzanne@epa.gov>; Opekar, Kimberly <Opekar.Kimberly@epa.gov>; Urdiales, Aaron <Urdiales.Aaron@epa.gov>
Subject: FW: AP: Keystone pipeline leaks 210,000 gallons of oil in South Dakota

Art, Chris:

See article link below. There are no waterways impacted, injuries or evacuations and SD is not requesting our assistance; hence, we are not dispatching an OSC.

From: Davis, Patrick
Sent: Thursday, November 16, 2017 5:07 PM
To: Mylott, Richard <Mylott.Richard@epa.gov>
Cc: R8 SLT <R8_SLT@epa.gov>; Ostrander, David <Ostrander.David@epa.gov>; Williams,

Laura <williams.laura@epa.gov>; Griswold, Hays <Griswold.Hays@epa.gov>; McClain-Vanderpool, Lisa <Mcclain-Vanderpool.Lisa@epa.gov>; Williams, Caroline <Williams.Caroline@epa.gov>; Faulk, Libby <Faulk.Libby@epa.gov>; Strobel, Philip <Strobel.Philip@epa.gov>

Subject: Re: AP: Keystone pipeline leaks 210,000 gallons of oil in South Dakota

Thank you

Patrick Davis

Environmental Protection Agency

Deputy Associate Administrator, Office of Land and Emergency Management

202-564-3103 office

202-380-8341 cell

Information sent to this email address may be subject to FOIA.

Sent from my iPad

On Nov 16, 2017, at 3:14 PM, Mylott, Richard <Mylott.Richard@epa.gov> wrote:

Fyi, news below traveling widely. Confirmed with R8 emergency response that SD is leading response activity and has not requested EPA assistance.

http://journalstar.com/news/state-and-regional/nebraska/keystone-pipeline-leaks-gallons-of-oil-in-south-dakota/article_bb902454-68b6-5657-bf2e-24426da26ba2.html

To: Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
From: Bodine, Susan
Sent: Fri 10/27/2017 6:30:50 PM
Subject: FW: Extension of Waiver for the Use of High Sulfur Fuel in Certain Emergency Applications in Puerto Rico
PR diesel generator waiver 10.27.17 Final Draft IO.docx

See below. Waiver extension. **Ex. 5 - Deliberative Process** (?)

From: Brooks, Phillip
Sent: Friday, October 27, 2017 2:08 PM
To: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>
Cc: Bodine, Susan <bodine.susan@epa.gov>; Chapman, Apple <Chapman.Apple@epa.gov>; Fogarty, Johnpc <Fogarty.Johnpc@epa.gov>; Miller, Anthony <Miller.Anthony@epa.gov>; Miles, Erin <Miles.Erin@epa.gov>; Schaaf, Eric <Schaaf.Eric@epa.gov>; Villatora, Liliana <Villatora.Liliana@epa.gov>
Subject: Extension of Waiver for the Use of High Sulfur Fuel in Certain Emergency Applications in Puerto Rico

The Office of the Governor of Puerto Rico has requested an extension of the waiver for use of high sulfur fuel for certain applications due to the difficulty of distributing compliant fuel as a result of the infrastructure damage from the recent hurricanes. I recommend **Ex. 5 - Deliberative Process**

Ex. 5 - Deliberative Process

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Mon 12/4/2017 3:09:13 PM
Subject: Fwd: EEI and EHS2 December 6 Invite

Sent from my iPhone

Begin forwarded message:

From: "Wood, Jeffrey (ENRD)" <Jeffrey.Wood@usdoj.gov>
Date: December 4, 2017 at 9:51:36 AM EST
To: Brent Fewell <brent.fewell@earthandwatergroup.com>
Cc: "Bodine, Susan" <bodine.susan@epa.gov>, "Bozek, Richard" <rbozek@eei.org>
Subject: Re: EEI and EHS2 December 6 Invite

I am still planning to attend. Would be great to have Larry there.

On Dec 4, 2017, at 9:15 AM, Brent Fewell <brent.fewell@earthandwatergroup.com> wrote:

How about Larry?

From: Bodine, Susan [mailto:bodine.susan@epa.gov]
Sent: Monday, December 4, 2017 8:52 AM
To: Brent Fewell <brent.fewell@earthandwatergroup.com>; Bozek, Richard <rbozek@eei.org>; Wood, Jeffrey (ENRD) <jeffrey.wood@usdoj.gov>
Subject: RE: EEI and EHS2 December 6 Invite

Patrick is part of the meeting with the Administrator.

From: Brent Fewell [mailto:brent.fewell@earthandwatergroup.com]
Sent: Monday, December 4, 2017 8:49 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Bozek, Richard <rbozek@eei.org>; Wood, Jeffrey (ENRD) <jeffrey.wood@usdoj.gov>
Subject: Re: EEI and EHS2 December 6 Invite

Susan, can you pls check with Patrick T as to his availability. Or would you rather we do that? We've got 60+ lined up that morning.

Brent

Get [Outlook for iOS](#)

From: Bodine, Susan <bodine.susan@epa.gov>
Sent: Monday, December 4, 2017 8:47:22 AM
To: Bozek, Richard; Wood, Jeffrey (ENRD); Brent Fewell
Subject: RE: EEI and EHS2 December 6 Invite

Rich, Jeff, and Brent,

I now have an 8:30 am meeting with the Administrator on December 6 (hearing prep), so I am no longer available to meet with the group this

Wednesday. I will have to take a rain check.

Susan

From: Bozek, Richard [<mailto:RBozek@eei.org>]
Sent: Wednesday, October 18, 2017 1:11 PM
To: Wood, Jeffrey (ENRD) <Jeffrey.Wood@usdoj.gov>
Cc: Doug Parker <doug.parker@earthandwatergroup.com>; Fewell Brent A. (brent.fewell@earthandwatergroup.com) <brent.fewell@earthandwatergroup.com>; Shea, Quin <QShea@eei.org>; Bodine, Susan <bodine.susan@epa.gov>; Wardzinski, Karen (ENRD) <Karen.Wardzinski@usdoj.gov>; Snow, Corinne (ENRD) <Corinne.Snow@usdoj.gov>; Berlowe, Andrea (ENRD)

<Andrea.Berlowe@usdoj.gov>

Subject: RE: EEI and EHS2 December 6 Invite

Jeff:

So glad you have received the approval. We look forward to having you as a speaker at the October 6 event. We will draft a formal invite to our membership and we look forward to making this an interesting and value-added discussion for all involved. Thank you for agreeing to participate.

Cordially,

Rich

C. Richard Bozek

Director, Environmental and Health & Safety Policy

Edison Electric Institute

701 Pennsylvania Ave., N.W.

Washington, D.C. 20004-2696

(202) 508-5641

Rbozek@eei.org

Follow EEI on [Twitter](#), [Facebook](#), and [YouTube](#).

<image001.jpg>

From: Wood, Jeffrey (ENRD) [<mailto:Jeffrey.Wood@usdoj.gov>]

Sent: Monday, October 16, 2017 6:44 PM

To: Bozek, Richard

Cc: Doug Parker; Fewell Brent A. (brent.fewell@earthandwatergroup.com); Shea, Quin; bodine.susan@epa.gov; Wardzinski, Karen (ENRD); Snow, Corinne (ENRD); Berlowe, Andrea (ENRD)

Subject: RE: EEI and EHS2 December 6 Invite

This email originated from an external sender. Use caution before clicking links or opening attachments. For more information, visit [The Grid](#). Questions? Please contact ITSupport@eei.org or ext. 5100.

Good evening Rich,

My apologies for the delay in responding. I have obtained DOJ approval for this event, and will look forward to participating if the invitation still stands. Thank you.

Best,

Jeff

Jeffrey H. Wood
Acting Assistant Attorney General
Environment and Natural Resources Division
U.S. Department of Justice
950 Pennsylvania Avenue, N.W., Room 2141
Washington, D.C. 20530-0001
(202) 514-2701
jeffrey.wood@usdoj.gov

From: Bozek, Richard [<mailto:RBozek@eei.org>]
Sent: Friday, September 22, 2017 3:30 PM
To: Wood, Jeffrey (ENRD) <JWood@ENRD.USDOJ.GOV>; bodine.susan@epa.gov

Cc: Doug Parker <doug.parker@earthandwatergroup.com>; Fewell Brent A. (brent.fewell@earthandwatergroup.com) <brent.fewell@earthandwatergroup.com>; Shea, Quin <QShea@eei.org>
Subject: EEI and EHS2 December 6 Invite

Dear Jeff and Susan,

The Edison Electric Institute (EEI) and the Environment, Health, Safety & Security (EHS²) Roundtable would like to invite both of you to participate in a breakfast forum on December 6, at EEI's offices located at 701 Pennsylvania Avenue, NW, Washington, DC, from 8 a.m. – 9:30 a.m. We anticipate 50-60 senior environmental leaders and managers mostly from the electric utility sector. The forum will be a panel style discussion, including the two of you and Doug Parker of EHS2, moderated by Quin Shea, EEI's VP of Environment. Each of you would be provided approximately 15-20 minutes to offer remarks, followed by a Q&A. We would welcome your thoughts and perspectives on the Administration's current priorities as it relates to environmental compliance and enforcement, and what we might expect over the next several years.

We are hopeful that you can join us and look forward to hearing from you.

Cordially,

Rich

C. Richard Bozek

Director, Environmental and Health & Safety Policy

Edison Electric Institute

701 Pennsylvania Ave., N.W.

Washington, D.C. 20004-2696

(202) 508-5641

Rbozek@eei.org

Follow EEI on Twitter, Facebook, and YouTube.

<image001.jpg>



To: Brown, Byron[brown.byron@epa.gov]
From: Bodine, Susan
Sent: Fri 12/1/2017 6:37:47 PM
Subject: give me a call regarding resolution of docketing issues

Ex. 6 - Personal Privacy

To: Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]
Cc: Fotouhi, David[fotouhi.david@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Bodine, Susan
Sent: Thur 11/30/2017 8:54:51 PM
Subject: RE: UPDATED: For Approval: Hard Rock Mining Press Statement
2017-11-29 Draft Press Release re Hard Rock Mining CERCLA BB.docx

A few more edits

From: Bowman, Liz
Sent: Thursday, November 30, 2017 3:43 PM
To: Brown, Byron <brown.byron@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: RE: UPDATED: For Approval: Hard Rock Mining Press Statement

Thanks, I accepted your edits in the attached version and am adding Jahan.

From: Brown, Byron
Sent: Thursday, November 30, 2017 3:39 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Subject: RE: UPDATED: For Approval: Hard Rock Mining Press Statement

Here are my edits. Adding Susan and Veronica.

From: Bowman, Liz

Sent: Thursday, November 30, 2017 2:46 PM

To: Brown, Byron <brown.byron@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>

Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Cory, Preston (Katherine)

<Cory.Preston@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>

Subject: UPDATED: For Approval: Hard Rock Mining Press Statement

Attached, and below, please find the current version of the release slated for tomorrow – including the quotes that I got from Preston thus far.

EPA Determines Risks from Hardrock Mining Industry Minimal and

No Need for Additional Federal Requirements

WASHINGTON – Today the U.S. Environmental Protection Agency (EPA) announced that the Agency will not issue final regulations for financial responsibility requirements for certain hardrock mining facilities.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A pre-publication version of this action may be viewed at:

<https://www.epa.gov/superfund/proposed-rule-financial-responsibility-requirements-under-cercla-section-108b-classes>

From: Brown, Byron

Sent: Wednesday, November 29, 2017 7:08 PM

To: Bennett, Tate <Bennett.Tate@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Cory, Preston (Katherine)

<Cory.Preston@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>

Subject: RE: For Approval: Hard Rock Mining Press Statement

For the new folks on the mail ...

The plan is for it to get signed FRIDAY. We have a court ordered deadline to sign by Friday, but I do not have a specific time yet – we're still working on revisions with OMB and OMB needs to clear for signature. Will keep you posted.

From: Bennett, Tate

Sent: Wednesday, November 29, 2017 7:07 PM

To: Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>

Subject: Re: For Approval: Hard Rock Mining Press Statement

Copying Preston/Troy who have the quotes RJ wanted. Western Govs etc

On Nov 29, 2017, at 7:02 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Below, and attached, please find the updated press release for the hard rock mining announcement. Byron, thanks for your work on this – I used what you wrote and just shortened the quote and moved it up. I didn't really change anything else, except I broke up the paragraphs a little. Does this work for you all? If so, is the plan to issue this tomorrow morning?

EPA Determines Risks from Hardrock Mining Industry Minimal and No Need for Additional Federal Requirements

WASHINGTON – Today the U.S. Environmental Protection Agency (EPA) announced that the Agency will not issue final regulations for financial responsibility requirements for certain hardrock mining facilities.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A pre-publication version of this action may be viewed at:

<https://www.epa.gov/superfund/proposed-rule-financial-responsibility-requirements-under-cercla-section-108b-classes>

Liz Bowman

U.S. Environmental Protection Agency (EPA)

Office: 202-564-3293

<2017-11-29 Draft Press Release re Hard Rock Mining CERCLA.docx>

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]; Brooks, Phillip[Brooks.Phillip@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
Cc: Bailey, Ethel[Bailey.Ethel@epa.gov]
From: Bodine, Susan
Sent: Mon 12/4/2017 10:11:26 PM
Subject: NSR meeting
NSR policy memo draft 2017 12 2 edits.docx

Can we reschedule the OCE weekly? There are 19 people from OAR on Bill's invite, but it is my understanding that they intend to keep it at the office and division director level. Who should attend from OCE?

DTE will not be part of the discussion so ignore the references to DTE in the attached.

Susan

-----Original Appointment-----

From: Wehrum, Bill

Sent: Monday, December 4, 2017 4:32 PM

To: Wehrum, Bill; Gunasekara, Mandy; Harlow, David; Bodine, Susan; Traylor, Patrick; Lewis, Josh; Page, Steve; Koerber, Mike; Harnett, Bill; Wood, Anna; Kornylak, Vera S.; Santiago, Juan; Wayland, Richard; Dunham, Sarah; Harvey, Reid; Krieger, Jackie; Vetter, Cheryl; Rao, Raj; Srinivasan, Gautam; Schmidt, Lorie; Doster, Brian

Subject: NSR Discussion

When: Tuesday, December 5, 2017 1:00 PM-1:45 PM (UTC-05:00) Eastern Time (US & Canada).

Where: WJC-N 5400 Ex. 5 - Deliberative Process Participant Code: Ex. 5 - Deliberative Process

To: Wehrum, Bill; Harlow, David; Gunasekara, Mandy; Lewis, Josh; Page, Steve; Koerber, Mike; Harnett, Bill; Wood, Anna; Kornylak, Vera S.; Santiago, Juan; Wayland, Richard; Dunham, Sarah; Harvey, Reid; Krieger, Jackie; Vetter, Cheryl; Rao, Raj; Doster, Brian; Schmidt, Lorie; Srinivasan, Gautam

To: Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Fotouhi, David[fotouhi.david@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Wilcox, Jahan[wilcox.jahan@epa.gov]
From: Bodine, Susan
Sent: Fri 12/1/2017 4:50:32 PM
Subject: RE: FINAL Hard Rock Mining Press Statement?

Looks good except for one typo –highlighted below.

From: Bowman, Liz
Sent: Friday, December 1, 2017 11:35 AM
To: Brown, Byron <brown.byron@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>
Subject: FINAL Hard Rock Mining Press Statement?

Attached, and below, should be the final release, with all the edits and quotes received as of this morning. Susan, please note that I broke up the administrator's quote into two sentences b/c it was really long with the additional edits I received today. I think we are just waiting on the final rule/document from Byron (via OMB), is that correct? We really need to get this out ASAP, as it's a Friday and we don't want to do this at the end of the day. Thank you – Liz

EPA Determines Risks from Hardrock Mining Industry Minimal and No Need for Additional Federal Requirements

WASHINGTON – Today the U.S. Environmental Protection Agency (EPA) announced that the Agency will not issue final regulations for financial responsibility requirements for certain hardrock mining facilities.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A pre-publication version of this action may be viewed at:

<https://www.epa.gov/superfund/proposed-rule-financial-responsibility-requirements-under-cercla-section-108b-classes>

To: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Mon 12/4/2017 9:33:52 PM
Subject: Bill's NSR invite

Who are all these people? And whom should we invite?

To: Wehrum, Bill; Harlow, David; Gunasekara, Mandy; Lewis, Josh; Page, Steve; Koerber, Mike; Harnett, Bill; Wood, Anna; Kornylak, Vera S.; Santiago, Juan; Wayland, Richard; Dunham, Sarah; Harvey, Reid; Krieger, Jackie; Vetter, Cheryl; Rao, Raj; Doster, Brian; Schmidt, Lorie; Srinivasan, Gautam

To: Hindin, David[Hindin.David@epa.gov]; McKeever, Michele[McKeever.Michele@epa.gov]
Cc: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Patrick Traylor
(traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Fri 12/1/2017 4:45:01 PM
Subject: FW: OECA Strategic Plan: Ready for OCFO transmittal
OECA Strategic Plan Draft sections 2.1 and 3.1 revisions 11 30 17 FINAL.DOCX

See edits to our edits. Can you work these out with OCFO?

From: Greaves, Holly
Sent: Friday, December 1, 2017 11:35 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>;
Bowman, Liz <Bowman.Liz@epa.gov>
Subject: FW: OECA Strategic Plan: Ready for OCFO transmittal

Susan/Henry,

Thank you for providing additional edits to the OECA portion of the Strategic Plan. I have a few comments on those edits proposed – please see attached for your consideration.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Liz, I am looping you in as well – ultimately we will be sharing with you a number of proposed edits to the strategic plan in the next couple of weeks, as we finalize it for OMB on December 22nd.

Thanks,

Holly

From: Darwin, Henry
Sent: Friday, December 1, 2017 9:13 AM
To: Bodine, Susan <bodine.susan@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>;

Bloom, David <Bloom.David@epa.gov>

Cc: Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; McKeever, Michele <McKeever.Michele@epa.gov>; Hindin, David <Hindin.David@epa.gov>; OBrien, Kathy <Obrien.Kathy@epa.gov>

Subject: RE: OECA Strategic Plan: Ready for OCFO transmittal

Ex. 5 - Deliberative Process

Thank you.

Henry

From: Bodine, Susan

Sent: Thursday, November 30, 2017 11:08 AM

To: Greaves, Holly <greaves.holly@epa.gov>; Bloom, David <Bloom.David@epa.gov>; OBrien, Kathy <Obrien.Kathy@epa.gov>

Cc: Darwin, Henry <darwin.henry@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; McKeever, Michele <McKeever.Michele@epa.gov>; Hindin, David <Hindin.David@epa.gov>

Subject: OECA Strategic Plan: Ready for OCFO transmittal

Importance: High

Holly, David, and Kathy,

Attached are edits to the draft Strategic Plan proposed by OECA.

Please note that:

1. Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Thank you for considering these edits.

Susan Bodine

To: Stachowiak, Robert[Stachowiak.Robert@epa.gov]; Noggle, William[Noggle.William@epa.gov]; Sasseville, Sonya[Sasseville.Sonya@epa.gov]; Johnson, Barnes[Johnson.Barnes@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Hostage, Barbara[Hostage.Barbara@epa.gov]; Cogliano, Gerain[Cogliano.Gerain@epa.gov]; Mattick, Richard[Mattick.Richard@epa.gov]; Farber, Glenn[Farber.Glenn@epa.gov]; Hilosky, Nick[Hilosky.Nick@epa.gov]; Brooks, Becky[Brooks.Becky@epa.gov]; Breen, Barry[Breen.Barry@epa.gov]; Lewis, Jen[Lewis.Jen@epa.gov]; Foster, Barbara[Foster.Barbara@epa.gov]; Huggins, Richard[Huggins.Richard@epa.gov]
From: Bodine, Susan
Sent: Thur 11/30/2017 6:55:13 PM
Subject: RE: DUE Nov 30th by noon - Final Review of 108b rule

On your first comment, lets change to:

Ex. 5 - Attorney Client

Have not had time to review your other edits.

From: Stachowiak, Robert
Sent: Thursday, November 30, 2017 12:49 PM
To: Noggle, William <Noggle.William@epa.gov>; Sasseville, Sonya <Sasseville.Sonya@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Mattick, Richard <Mattick.Richard@epa.gov>; Farber, Glenn <Farber.Glenn@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Foster, Barbara <Foster.Barbara@epa.gov>; Huggins, Richard <Huggins.Richard@epa.gov>
Subject: RE: DUE Nov 30th by noon - Final Review of 108b rule

Attorney-client communication

Deliberative process privileged

A few additional comments from me.

-R

Robert Stachowiak
U.S. Environmental Protection Agency
Office of General Counsel (2366A)
1200 Pennsylvania Ave., N.W.
Washington, D.C. 20460
(202) 564-0580

From: Noggle, William

Sent: Wednesday, November 29, 2017 8:10 PM

To: Sasseville, Sonya <Sasseville.Sonya@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Mattick, Richard <Mattick.Richard@epa.gov>; Farber, Glenn <Farber.Glenn@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Breen, Barry <Breen.Barry@epa.gov>; Lewis, Jen <Lewis.Jen@epa.gov>; Foster, Barbara <Foster.Barbara@epa.gov>; Huggins, Richard <Huggins.Richard@epa.gov>

Subject: DUE Nov 30th by noon - Final Review of 108b rule

To all –

By noon tomorrow (Thursday, Nov 30th), please review the attached version of the rule, which addresses the final round of comments from interagency reviewers. The redline version shows changes from the previous version sent to OMB on Nov 27th. If you have edits, please make them to the clean version and send to Barbara and me.

This is the final EPA review before we conclude OMB review.

Please note there are still some items being addressed:

- Fixing footnotes

- **Ex. 5 - Deliberative Process**

Thanks,

Bill

202-566-1306

To: Traylor, Patrick[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Thur 11/30/2017 1:32:17 AM
Subject: Re: moving forward

Ok

Sent from my iPad

On Nov 29, 2017, at 4:14 PM, Traylor, Patrick <traylor.patrick@epa.gov> wrote:

I'd like to ask Cari to begin reviewing the Administrator's calendar for the purpose of coordinating OECA input into meetings.

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance

U.S. Environmental Protection Agency

(202) 564-5238 (office)

(202) 809-8796 (cell)

From: Jackson, Ryan

Sent: Sunday, November 12, 2017 8:07 PM

To: Ford, Hayley <ford.hayley@epa.gov>; Abboud, Michael <abboud.michael@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy

<Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron <ringel.aaron@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>

Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>; Woodward, Cheryl <Woodward.Cheryl@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>

Subject: moving forward

Please use the following streamlined process to provide briefing material for Administrator Pruitt, each bullet is important:

- When the Administrator is taking a meeting from outside the agency, including a member of Congress, industry, NGO, other stakeholder, email a brief that is no longer than one page and preferably half a page to Lincoln no later than 4pm the day before the event or meeting.

- When the Administrator is traveling, develop talking points and a short briefer on issues on which you are working which are important to the groups he's meeting with or speaking to.
 - These points or briefer need to be no more than a page and preferably less.
 - Please provide the points or briefer to Tate and Lincoln no later than 4pm the day before the Administrator departs for the entire trip.
 - Please try to get the points or briefer to Tate and Lincoln as early as you are able before the trip.

- When the Administrator is meeting with internal staff, please provide Lincoln a short brief (quarter of a page) no later than 4pm the day before the event or meeting.

●□□□□□□ For press interviews, the press shop will reach out to you concerning material needed for interviews. However, when you are contacted by the press office please provide the most concise information you can because it is being combined with material from others.

●□□□□□□ Please *watch the Administrator's schedule each day for changes* which will include in D.C. and outside D.C. events so this can work most efficiently.

Thank you all.

Ryan.

From: Ford, Hayley

Sent: Thursday, November 9, 2017 4:52 PM

To: Abboud, Michael <abboud.michael@epa.gov>; Baptist, Erik <baptist.erik@epa.gov>; Beck, Nancy <Beck.Nancy@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Bolen, Brittany <bolen.brittany@epa.gov>; Bolen, Derrick <bolen.derrick@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Chmielewski, Kevin <chmielewski.kevin@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Darwin, Henry <darwin.henry@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Dominguez, Alexander <dominguez.alexander@epa.gov>; Dourson, Michael <dourson.michael@epa.gov>; Dravis, Samantha <dravis.samantha@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Feeley, Drew (Robert) <Feeley.Drew@epa.gov>; Ferguson, Lincoln <ferguson.lincoln@epa.gov>; Ford, Hayley <ford.hayley@epa.gov>; Forsgren, Lee <Forsgren.Lee@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Frye, Tony (Robert) <frye.robert@epa.gov>; Gordon, Stephen <gordon.stephen@epa.gov>; Greaves, Holly <greaves.holly@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>; Gunasekara, Mandy <Gunasekara.Mandy@epa.gov>; Harlow, David <harlow.david@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Hupp, Millan <hupp.millan@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Kelly, Albert <kelly.albert@epa.gov>; Konkus, John <konkus.john@epa.gov>; Letendre, Daisy <letendre.daisy@epa.gov>; Lovell, Will (William) <lovell.william@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; McMurray, Forrest <mcmurray.forrest@epa.gov>; Munoz, Charles <munoz.charles@epa.gov>; Palich, Christian <palich.christian@epa.gov>; Ringel, Aaron

<ringel.aaron@epa.gov>; Rodrick, Christian <rodrick.christian@epa.gov>; Sands, Jeffrey <sands.jeffrey@epa.gov>; Schwab, Justin <Schwab.Justin@epa.gov>; Shimmin, Kaitlyn <shimmin.kaitlyn@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>; White, Elizabeth <white.elizabeth@epa.gov>; Wilcox, Jahan <wilcox.jahan@epa.gov>; Yamada, Richard (Yujiro) <yamada.richard@epa.gov>
Cc: Dickerson, Aaron <dickerson.aaron@epa.gov>; Woodward, Cheryl <Woodward.Cheryl@epa.gov>; Willis, Sharnett <Willis.Sharnett@epa.gov>
Subject: Draft LxL Nov 13, 2017 - Dec 15, 2017

See attached for draft LxL. I would not plan for a Monday morning meeting, unless Ryan says otherwise.

Thanks and enjoy the holiday!

Hayley Ford

Deputy White House Liaison and Personal Aide to the Administrator

Environmental Protection Agency

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

To: Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Fonseca, Silvina[Fonseca.Silvina@epa.gov]; Grantham, Nancy[Grantham.Nancy@epa.gov]
Cc: Darwin, Veronica[darwin.veronica@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
From: Bodine, Susan
Sent: Fri 12/1/2017 10:06:50 PM
Subject: RE: omb 108b review concluded

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Bowman, Liz
Sent: Friday, December 1, 2017 5:04 PM
To: Brown, Byron <brown.byron@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Subject: RE: omb 108b review concluded

Much better – Thank you!!

From: Brown, Byron
Sent: Friday, December 1, 2017 5:03 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: RE: omb 108b review concluded

Ex. 5 - Deliberative Process

From: Bowman, Liz
Sent: Friday, December 1, 2017 5:01 PM
To: Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Brown, Byron <brown.byron@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: RE: omb 108b review concluded

We can make it 6 p.m. – can you all help with this sentence? It’s really confusing – are these punctuation marks okay, or do they change the meaning of the sentence?

Ex. 5 - Deliberative Process

From: Fonseca, Silvina
Sent: Friday, December 1, 2017 4:58 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Grantham, Nancy <Grantham.Nancy@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Hewitt, James <hewitt.james@epa.gov>
Subject: RE: omb 108b review concluded

How difficult is it to move to 6 pm? If it is easy, then let’s do 6 so we don’t have to scramble.

Silvina Fonseca

Special Assistant

Office of the Administrator

U.S. Environmental Protection Agency

Desk: 202.564.1955

Cell: Ex. 6 - Personal Privacy

From: Bowman, Liz

Sent: Friday, December 01, 2017 4:54 PM

To: Fonseca, Silvina <Fonseca.Silvina@epa.gov>; Grantham, Nancy
<Grantham.Nancy@epa.gov>

Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Hewitt, James <hewitt.james@epa.gov>

Subject: RE: omb 108b review concluded

We have the press release tee'd to go out at 5:30 – do you think that will be enough time to get it posted? Should we move it to 6 p.m.?

From: Fonseca, Silvina

Sent: Friday, December 1, 2017 4:53 PM

To: Grantham, Nancy <Grantham.Nancy@epa.gov>; Bowman, Liz <Bowman.Liz@epa.gov>

Cc: Darwin, Veronica <darwin.veronica@epa.gov>

Subject: RE: omb 108b review concluded

Just waiting on the package!

Silvina Fonseca

Special Assistant

Office of the Administrator

U.S. Environmental Protection Agency

Desk: 202.564.1955

Cell:

Ex. 6 - Personal Privacy

From: Grantham, Nancy
Sent: Friday, December 01, 2017 4:50 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>
Cc: Darwin, Veronica <darwin.veronica@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>
Subject: Re: omb 108b review concluded

Looping Silvina re signature

Sent from my iPhone

On Dec 1, 2017, at 4:43 PM, Bowman, Liz <Bowman.Liz@epa.gov> wrote:

Can you send me the attachment? Is it signed?

From: Grantham, Nancy
Sent: Friday, December 1, 2017 4:42 PM
To: Bowman, Liz <Bowman.Liz@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>
Subject: Fwd: omb 108b review concluded

See below

Sent from my iPhone

Begin forwarded message:

From: "Lowery, Brigid" <Lowery.Brigid@epa.gov>
Date: December 1, 2017 at 4:41:41 PM EST
To: "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Colip, Matthew" <colip.matthew@epa.gov>, "Harwood, Jackie" <Harwood.Jackie@epa.gov>, "Levine, Carolyn" <Levine.Carolyn@epa.gov>, "Grantham, Nancy" <Grantham.Nancy@epa.gov>, "Richardson, RobinH" <Richardson.RobinH@epa.gov>
Subject: omb 108b review concluded

Note OMB reviewed concluded

From: Noggle, William

Sent: Friday, December 01, 2017 4:41 PM

To: Ames, Jeremy <Ames.Jeremy@epa.gov>; Colip, Matthew
<colip.matthew@epa.gov>; Lowery, Brigid <Lowery.Brigid@epa.gov>

Cc: Foster, Barbara <Foster.Barbara@epa.gov>; Sasseville, Sonya
<Sasseville.Sonya@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>

Subject: pre-publication version

Comms –

OMB officially concluded review a few minutes ago. Attached is the version we sent up for signature. This will be the pre-publication version.

Thanks,

Bill

202-566-1306

To: Ferguson, Lincoln[ferguson.lincoln@epa.gov]
From: Bodine, Susan
Sent: Fri 12/1/2017 2:15:21 PM
Subject: RE: Phone number

My desk is: **Ex. 6 - Personal Privacy**

From: Ferguson, Lincoln
Sent: Friday, December 1, 2017 9:03 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Subject: Phone number

Good morning! Can I get a number to reach you?

Sent from my iPhone

To: Brown, Byron[brown.byron@epa.gov]
From: Bodine, Susan
Sent: Wed 11/29/2017 10:37:47 PM
Subject: TIMET
[TIMET.pdf](#)

Ex. 5 - Deliberative Process

Violations

The government complaint alleges that TIMET violated TSCA by manufacturing PCBs without authorization, and by illegally disposing of PCBs. EPA inspectors found that the company's titanium manufacturing process generated PCBs as a byproduct that was disposed of with magnesium chloride dust, in violation of TSCA. The company also violated TSCA by disposing of the PCB-contaminated dust in its solid waste landfill and a trench outside of the plant's magnesium recovery building.

The complaint also alleges that TIMET, a large quantity generator of hazardous waste, violated RCRA by treating, storing, and disposing of hazardous waste improperly and without a permit. On several occasions, TIMET used an unpermitted surface impoundment (HP-1) to dispose and treat corrosive process wastewater, which is classified as a hazardous waste under RCRA

:HYH^L PDGH^L VRPH^L FKQJH/3\$WJRM^L , I^L WKH^L LQIRUPDWRQ^L \RX^L DUH^L ORRNLOJ^L IRU^L
 PD\^L EH^L DECH^L WR^L ILQG(3\$W^L: RQ\$WKLYH-RU^L WKEDXU\^L ¶ !! ¶ ¶^L :HE^L 6QDSMKRW



7,0(7^L 6HWO-PHQW^L

♂ :\$6+, 1*721⊙^L '◀ &◀^L +^L OD\^L ¶ +^L ⊙^L +^L !! ¶ +^L □^L +^L 7LWDQLXP^L OHWDOV^L &RUSRUDW^L
 ODUJHW^L SURGXFHUV^L RI^L WLWDQLXP^L SDUW^L IRU^L MHW^L HQJLQH^L DQG^L RWKHU^L LQGXWULDO^L
 SHUIRUP^L DQ^L H[WQHMLYH^L LQYHWLJDWRQ^L DQG^L FOHQXS^L RI^L SRWHQWDO^L FRQWPLQDWRQ^L \
 WKH^L XQDXWKUL]HG^L PDQIDFAXUH^L DQG^L GLVSRVO^L RI^L 38%^L ♂ SRO\FKORULQDWHG^L ELSKHQ\O^L
 ORXQDQLQ^L , QGXWULDO^L &RPSCH^L PDQIDFAXULQJ^L IDFLOM^L LQ^L +HQHUVRO⊙^L 1HY◀ ⊙^L W^L
 3URWHFWLRQ^L \$JHQF\^L ♂ (3\$□^L DQG^L 'HSDUWPHQW^L RI^L -XWLFH^L DQQRXQH-G^L WRGD\◀^L

6HWO-PHQW^L 5MRXUHV

á5HIIHUHQFH^L 1HZV^L 5QDMH
 á&RQH-QW^L 'HFUHH^L DQG^L &RPSODLQW

á2YHUYLHZ^L RI^L 6HWO-PHQW^L
 á&RPSDQ\^L %DFNJURXQG
 á9LRQDWRQV^L
 á\$FWLRQV^L 5HTXLUHG^L E\^L 6HWO-PHQW^L
 á3ROOXWDOV^L 5HGXFWRQV^L
 á+XPDQ^L +HDWK^L DQG^L (QYLURGHQWDO^L &RQHUVQV^L
 á&RPHQW^L 3HULRG
 á&RQDFW

2YHUYLHZ^L RI^L 6HWO-PHQW^L

,Q^L WKH^L SURSRVHG^L VHWO-PHQW^L 7LWDQLXP^L OHWDOV^L &RUSRUDWRQ^L ♂ 7,0(7□⊙^L RQH^L RI^L
 SURGXFHUV^L RI^L WLWDQLXP^L SDUW^L IRU^L MHW^L HQJLQH^L DQG^L RWKHU^L LQGXWULDO^L DSSOLFDM^L
 H[WQHMLYH^L LQYHWLJDWRQ^L DQG^L FOHQXS^L RI^L SRWHQWDO^L FRQWPLQDWRQ^L WHPPLOJ^L SULF^L
 XQDXWKUL]HG^L PDQIDFAXUH^L DQG^L GLVSRVO^L RI^L 38%^L ♂ SRO\FKORULQDWHG^L ELSKHQ\OV□^L
 IDFLOM^L LQ^L +HQHUVRO⊙^L 1HYDGD◀

7KH^L FRPSDQ\^L ZLOO^L DQV^L SD\^L D^L • ¶ ¶ ◀ → ↑^L PLOOLRQ^L FLYLO^L SHQDM^L +^L +^L WKH^L
 YLRQDWRQV^L RI^L WKH^L 7R[LF^L 6XEWQGFHV^L &RQVRO^L \$FW^L ♂ 768\$□^L DM^L D^L VLQJH^L IDFLC^L
 • +^L ↑^L !! ⊙^L !! !!^L IRU^L LOCHJD^L GLVSRVO^L RI^L KD]DUGRXV^L SURFHV^L ZDWHZDWHU⊙^L LQ^L
 &RQHUYDWRQ^L DQG^L 5HFRYHU\^L \$FW^L ♂ 585\$□◀^L

&RPSDQ\^L %DFNJURXQG

7,0(7^L SURFHWHV^L WWDQLXP^L FRQDQLQJ^L UXALCH^L RUH^L IURP^L \$XWUDOLD^L LQWR^L KLJK^L T^D WKH^L IDFLOVM^L [♂] WWDQLXP^L VSRQJH^L LV^L WKH^L ILUWM^L FRPPHUFDO^L IRUP^L RI^L WWDQLXP^L F^L PDQIDFAXULQJ^L SURFHW^L ◀^L 7KH^L FRPSDQ\ [∂] V^L IDFLOVM^L LQ^L +HGHUVRQ^L 1HYDGD^L FRXQW^L [♂] KDV^L EHQ^L RSHUDWLQJ^L VLQFH^L WKH^L ¶ ↑ !! V^L DQG^L LV^L SDUW^L RI^L WKH^L ODU &RPSCH^L [♂] %◀^L

+HGTDXUWHUG^L QDU^L 3KLODGHOSKLD^L 3\$^L 7,0(7^L KDV^L EHQ^L VXSSO\ LQJ^L QDU^L RQH WWDQLXP^L GHFDQG^L VLQFH^L ¶ ↑ !! ◀^L ,Q^L 'HFPEHU^L ± !! ¶ ± [♂] 3UHFLVLRQ^L &DWW^L 3DU 2UHJRO^L DFTXLUHG^L 7,0(7^L DV^L D^L ZKRO^L RZQH^L VXEVLGLDU◀^L

9LRODNLRQV

7KH^L JRYHUQH-QV- FRPSODLQV- DOOHJHV^L WKDW^L 7,0(7^L YLRODWHG^L 76&\$^L E\^L PDQIDFAXULQJ DXWKRLJDNLRO^L DQG^L E\^L LOOHJDOO\ GLVSRVLQJ^L RI^L 38%/◀^L (3\$^L LQSHFARUV^L IRXQ PDQIDFAXULQJ^L SURFHW^L JHQHUDWHG^L 38%/^L DV^L D^L E\ SURGXFW^L WKDW^L ZDV^L GLVSRVHG^L RI^L GXW^L LQ^L YLRODNLRQ^L RI^L 76&\$◀^L 7KH^L FRPSDQ\ DOVR^L YLRODWHG^L 76&\$^L E\^L GLVSRVLQ GXW^L LQ^L LVW^L VROLG^L ZDWH^L ODGILOO^L DQG^L D^L WUHQFK^L RXWLGH^L RI^L WKH^L SODQV^L V^L F

7KH^L FRPSODLQV- DOVR^L DOOHJHV^L WKDW^L 7,0(7^L D^L ODUJH^L TXDQVM^L JHQHUDWU^L RI^L KD^L 5&5\$^L E\^L WUHDNLQJ^L WRULQJ^L DQG^L GLVSRVLQJ^L RI^L KDJDUGRXV^L ZDWH^L LPSURSHU^L [VHYHDO^L RFFDNLROV^L 7,0(7^L XVHG^L DQ^L XQSHUPLVWHG^L VXUIDFH^L LPSRXQGH-QV- [♂] +3^L ¶ ◻ FRUURLYH^L SURFHW^L ZDWHZDWHU^L ZKLFK^L LV^L FODMLILHG^L DV^L D^L KDJDUGRXV^L ZDWH^L X

\$FALRQV^L 5HTXLUHG^L E\^L 6HWO-PH-QV

7KH^L SURSRVHG^L VHWCH-QV- UHTXLUH^L WKDW^L 7,0(7^L IXOO\^L LQYHAWLJDWH^L WKH^L PDQIDFAX RYHMLJKW^L IRU^L 38%^L FRQDPLQDLRO^L DQG^L FOHQ^L XS^L DQ\^L 38%^L DQG^L KDJDUGRXV^L ZI 6SHFLILF^L DFWLRQV^L LQFOXGH

- á3HUIRUP^L D^L SODQV^L ZLGH^L LQYHAWLJDNLRO^L WR^L GWHUPLQH^L WKH^L QDWXUH^L H[WQH-QV- RI SODQV
- á6XEPLW^L WR^L (3\$^L IRU^L (3\$^L [∂] V^L DSSURYDO^L DQ^L LQYHAWLJDNLRO^L UHSRUW^L DQG^L D^L FOHQ
- á5HFHGLDWH^L DV^L QHFHWDU^L DQ\^L FRQDPLQDLRO^L IRXQG
- á6XEPLW^L D^L FOHQXS^L UHSRUW^L IRU^L (3\$^L [∂] V^L DSSURYDO^L GRFXPHQLQJ^L WKDW^L 7,0(7^L DFWLRQV^L UHTXLUHG^L XGJU^L WKH^L VHWCH-QV-
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- á%LDQXDOO\^L FRQVWU^L DQG^L UHSRUW^L WR^L (3\$^L IRU^L WKUHH^L \HDUV^L DQ\^L 38%^L FRQFHQ UHQDMHV^L WR^L DLU^L ZDWHU^L DQG^L SURFHW^L ZDWHV◀^L
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¶ ¶ † † ◀ | ¶ † - | † ☼ ¶ ◀ !! " ' Á ' " " Ÿ

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Thur 11/30/2017 3:25:07 PM
Subject: RE: November 26 - Update on TransCanada "Ludden +17" Spill

Thank you for following up.

From: Kelley, Rosemarie
Sent: Thursday, November 30, 2017 10:24 AM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: Re: November 26 - Update on TransCanada "Ludden +17" Spill

I heard from the OSC that the soil piles shown in that photo are adjacent to the pipeline rupture and in the "hot" or contaminated zone. The piles are moved from that zone to a bermed and lined staging pad where they are covered (per SD regulations) and briefly staged pending sampling results for disposal.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

This includes work to remove, sample, and properly dispose of impacted soils. They continue to work 24 hours a day/7 days a week.

TransCanada recognizes that the unseasonably warm weather can turn bitter cold at anytime. They want to get as much done while the weather remains warm and the working conditions are safe. The company is apparently hauling much of the contaminated soil offsite for disposal each day (avoiding the need to temporary storage).

Rosemarie

On Nov 29, 2017, at 2:26 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

So they need to follow their plan:

-----Original Message-----

From: Kelley, Rosemarie

Sent: Tuesday, November 28, 2017 1:34 PM

To: Bodine, Susan <bodine.susan@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence
<Starfield.Lawrence@epa.gov>

Subject: RE: November 26 - Update on TransCanada "Ludden +17" Spill

TransCanada's waste plan says it will cover contaminated soils with 10 mil (minimum) plastic. Here is an excerpt from the waste plan:

3.4.1 Temporary Storage

Impacted soil may be temporarily staged on-site within cells engineered with soil storage cells constructed in accordance with the Administrative Rules of South Dakota 74:56:05:21 to control migration of free-phase liquids and stormwater run-off. Cells will be lined with minimum 10-mil plastic. If soil is saturated with free liquids a lined sump for the collection of free-phase liquids and water should be installed. Stockpiled soils will be appropriately sloped in accordance with the respective soil type. Stockpiled soils will be covered with minimum 10-mil plastic. Leached oil accumulated in sumps will be recovered and managed as recovered oil.

Rosemarie

-----Original Message-----

From: Bodine, Susan

Sent: Tuesday, November 28, 2017 9:15 AM

To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov<<mailto:Kelley.Rosemarie@epa.gov>>>

Cc: Traylor, Patrick <traylor.patrick@epa.gov<<mailto:traylor.patrick@epa.gov>>>;
Starfield, Lawrence <Starfield.Lawrence@epa.gov<<mailto:Starfield.Lawrence@epa.gov>>>

Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill

See below. **Ex. 5 - Deliberative Process**

-----Original Message-----

From: Ostrander, David

Sent: Monday, November 27, 2017 3:50 PM

To: Bodine, Susan <bodine.susan@epa.gov<<mailto:bodine.susan@epa.gov>>>; Benevento,
Douglas <benevento.douglas@epa.gov<<mailto:benevento.douglas@epa.gov>>>; Traylor,
Patrick <traylor.patrick@epa.gov<<mailto:traylor.patrick@epa.gov>>>; Davis, Patrick
<davis.patrick@epa.gov<<mailto:davis.patrick@epa.gov>>>; Smidinger, Betsy
<Smidinger.Betsy@epa.gov<<mailto:Smidinger.Betsy@epa.gov>>>

Cc: Dhieux, Joyel <Dhieux.Joyel@epa.gov<<mailto:Dhieux.Joyel@epa.gov>>>

Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill

Susan,

Transcanada is removing free oil and soils at this time. The soils are being staged for disposal on a lined and bermed pad in accordance with state regulations. They will segregate the more saturated soils (i.e. the area around the rupture) from the less impacted soils (i.e. area lightly sprayed). Soils (and most waste streams) will be sampled and characterized prior to disposal. They are still a few weeks from disposal, thus no soil samples for disposal have been collected at this point. Transcanada intends to test the soils for hazardous waste characteristics and manage them appropriately as solid or hazardous wastes. According to Transcanada, these wastes are not exempt E&P wastes.

Thanks, and let us know if you have any other questions.

From: Bodine, Susan

Sent: Monday, November 27, 2017 8:09 AM

To: Ostrander, David

<Ostrander.David@epa.gov<<mailto:Ostrander.David@epa.gov>>>

Cc: Benevento, Douglas

<benevento.douglas@epa.gov<<mailto:benevento.douglas@epa.gov>>>; Traylor, Patrick

<traylor.patrick@epa.gov<<mailto:traylor.patrick@epa.gov>>>

Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill

See question below – got an out of office reply from Betsy.

From: Bodine, Susan

Sent: Monday, November 27, 2017 10:03 AM

To: Smidinger, Betsy

<Smidinger.Betsy@epa.gov<mailto:Smidinger.Betsy@epa.gov<mailto:Smidinger.Betsy@epa.gov<mailto:

Cc: Benevento, Douglas

<benevento.douglas@epa.gov<mailto:benevento.douglas@epa.gov<mailto:benevento.douglas@epa.gov<mailto:
Patrick

Traylor

(traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov<mailto:traylor.p

<traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov<mailto:traylor.

Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill

Betsy,

Ex. 5 - Deliberative Process

Thanks,

Susan

From: Traylor, Patrick

Sent: Monday, November 27, 2017 7:54 AM

To: Jackson, Ryan

<jackson.ryan@epa.gov<mailto:jackson.ryan@epa.gov<mailto:jackson.ryan@epa.gov<mailto:jackson.ryan

Bodine, Susan

<bodine.susan@epa.gov<<mailto:bodine.susan@epa.gov><<mailto:bodine.susan@epa.gov><<mailto:bodine.susan@epa.gov>

Bowman, Liz

<Bowman.Liz@epa.gov<<mailto:Bowman.Liz@epa.gov><<mailto:Bowman.Liz@epa.gov><<mailto:Bowman.Liz@epa.gov>

Ferguson,

Lincoln

<ferguson.lincoln@epa.gov<<mailto:ferguson.lincoln@epa.gov><<mailto:ferguson.lincoln@epa.gov><<mailto:ferguson.lincoln@epa.gov>

Subject: Fwd: November 26 - Update on TransCanada "Ludden +17" Spill

FYSA

Patrick Traylor

Deputy Assistant Administrator

Office of Enforcement and Compliance Assurance U.S. Environmental

Protection Agency

(202) 564-5238 (office)

(b) (6) (cell)

Begin forwarded message:

From: "Smidinger, Betsy"

<Smidinger.Betsy@epa.gov<<mailto:Smidinger.Betsy@epa.gov><<mailto:Smidinger.Betsy@epa.gov><<mailto:Smidinger.Betsy@epa.gov>

To: "Benevento, Douglas"

<benevento.douglas@epa.gov<<mailto:benevento.douglas@epa.gov><<mailto:benevento.douglas@epa.gov><<mailto:benevento.douglas@epa.gov>

"Thomas, Deb"

<thomas.debrah@epa.gov<<mailto:thomas.debrah@epa.gov><<mailto:thomas.debrah@epa.gov><<mailto:thomas.debrah@epa.gov>

"Davis, Patrick"

<davis.patrick@epa.gov<<mailto:davis.patrick@epa.gov><<mailto:davis.patrick@epa.gov><<mailto:davis.patrick@epa.gov>

"Traylor,

Patrick"

<traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov<mailto:traylor.

Cc: "Mutter, Andrew"

<mutter.andrew@epa.gov<mailto:mutter.andrew@epa.gov<mailto:mutter.andrew@epa.gov<mailto:mutter.

"Ostrander,

David"

<Ostrander.David@epa.gov<mailto:Ostrander.David@epa.gov<mailto:Ostrander.David@epa.gov<mailto:

"Williams, Laura"

<williams.laura@epa.gov<mailto:williams.laura@epa.gov<mailto:williams.laura@epa.gov<mailto:william

"Dhieux,

Joyel"

<Dhieux.Joyel@epa.gov<mailto:Dhieux.Joyel@epa.gov<mailto:Dhieux.Joyel@epa.gov<mailto:Dhieux.Jo

"Griswold,

Hays"

<Griswold.Hays@epa.gov<mailto:Griswold.Hays@epa.gov<mailto:Griswold.Hays@epa.gov<mailto:Grisw

Subject: Fwd: November 26 - Update on TransCanada "Ludden +17" Spill

Hi All - Here is Joyel's update for today.

Sent from my iPhone

Betsy Smidinger

ARA, Ecosystems Protection and Remediation Region 8, US EPA Denver, CO

(303) 312-6231 (o)

(303) 335-7627 (c)

Begin forwarded message:

Dhieux.Joyel@epa.govDhieux.Joyel@epa.govDhieux.Joyel@epa.govDhieux.Joyel@epa.gov

<Smidinger.Betsy@epa.gov<<mailto:Smidinger.Betsy@epa.gov><<mailto:Smidinger.Betsy@epa.gov><[mailto:](mailto:Smidinger.Betsy@epa.gov)

David"

Ostrander.David@epa.gov<mailto:Ostrander.David@epa.gov><mailto:Ostrander.David@epa.gov>[mailto:](mailto:Ostrander.David@epa.gov)

<williams.laura@epa.gov<<mailto:williams.laura@epa.gov><<mailto:williams.laura@epa.gov><<mailto:williams.laura@epa.gov>

Hays"

<Griswold.Hays@epa.gov<<mailto:Griswold.Hays@epa.gov><<mailto:Griswold.Hays@epa.gov><<mailto:Griswold.Hays@epa.gov>

Subject: November 26 - Update on TransCanada "Ludden +17" Spill

Hi All,

I've attached the updated Incident Briefing for the TransCanada "Ludden +17" Spill.

The pipeline was successfully drained last night and will be removed tonight. The damaged section of pipeline will be sent to PHMSA for analysis.

If you have any questions, please let me know. Tomorrow is my last planned day on-site.

Joyel

.....

Joyel Dhieux

Federal On-Scene Coordinator

U.S. EPA Region 8

Tel: 303-312-6647

Cell: 720-441-9961

<Incident Briefing 11.26.17.docx>

<20171126 _ICS 209 Incident Status Summary.pdf>

<Incident Briefing 11.26.17.docx>

<Incident Briefing 11.26.17.docx>

<ATT51990>

To: Bowman, Liz[Bowman.Liz@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]; Lyons, Troy[lyons.troy@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]
Cc: Wilcox, Jahan[wilcox.jahan@epa.gov]; Hewitt, James[hewitt.james@epa.gov]; Cory, Preston (Katherine)[Cory.Preston@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Bennett, Tate[Bennett.Tate@epa.gov]
From: Bodine, Susan
Sent: Fri 12/1/2017 9:44:27 PM
Subject: RE: FINAL Hard Rock Mining Press Release

OK here

From: Bowman, Liz
Sent: Friday, December 1, 2017 4:39 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Brown, Byron <brown.byron@epa.gov>; Jackson, Ryan <jackson.ryan@epa.gov>; Lyons, Troy <lyons.troy@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>
Cc: Wilcox, Jahan <wilcox.jahan@epa.gov>; Hewitt, James <hewitt.james@epa.gov>; Cory, Preston (Katherine) <Cory.Preston@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bennett, Tate <Bennett.Tate@epa.gov>
Subject: FINAL Hard Rock Mining Press Release

Below, should be the final release, with an updated quote from Governor Sandoval and a quote added from the chairman of the Senate Western Caucus, Steve Daines. We are going to put this into our system, so that we can push send when Byron gives us the go ahead... **David/Byron/Susan** – Please take another last look to make sure it's all accurate. Thank you – Liz

EPA Determines Risks from Hardrock Mining Industry Minimal and No Need for Additional Federal Requirements

WASHINGTON – Today the U.S. Environmental Protection Agency (EPA) announced that the Agency will not issue final regulations for financial responsibility requirements for certain hardrock mining facilities.

Ex. 5 - Deliberative Process

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Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

A pre-publication version of this action may be viewed at:

<https://www.epa.gov/superfund/proposed-rule-financial-responsibility-requirements-under-cercla-section-108b-classes>

###

Liz Bowman

U.S. Environmental Protection Agency (EPA)

Office: 202-564-3293

To: Brown, Byron[brown.byron@epa.gov]
From: Bodine, Susan
Sent: Wed 11/29/2017 10:05:31 PM
Subject: Chevron Questa
2016-09-26 Chevron-Questa-Mine-Fact-Sheet-PCD-prep-date.pdf
Chevron Questa mine settlement.pdf

Superfund Activities Update

Chevron Questa Mine Superfund Site

Taos County, New Mexico

September 2016

This Fact Sheet will tell you about...

- ☐ **Partial Consent Decree**
- ☐ **Site Description and History**
- ☐ **Community Participation**
- ☐ **Where to get more information**

This fact sheet provides an update on the Chevron Questa Mine Superfund Site (Site).

PARTIAL CONSENT DECREE

On August 9, 2016, the Department of Justice (DOJ) lodged a proposed First Partial Remedial Design/Remedial Action (RD/ RA) Consent Decree (Consent Decree) with the United States District Court for the District of New Mexico. The DOJ received a request for an extension of the initial public comment period and extended the comment period for an additional 30 days, or until October 14, 2016. Comments may be submitted to DOJ either by email or by mail.

To submit comments:

By email

Send them to:

[pubcomment-
ees.enrd@usdoj.gov](mailto:pubcomment-ees.enrd@usdoj.gov)

By mail

Assistant Attorney General
U.S. DOJ—ENRD
P.O. Box 7611
Washington, DC 20044-7611

The Consent Decree is a settlement agreement between Chevron Mining Inc. (CMI), the U.S. Environmental Protection Agency (EPA), and the State of New Mexico. Under the Consent Decree, CMI will perform part of the cleanup work described in the EPA's Record of Decision (ROD) and pay over \$5.2 million to reimburse EPA's past costs for overseeing cleanup work at the Site.



Village of Questa and Chevron Questa Mine Tailing Facility

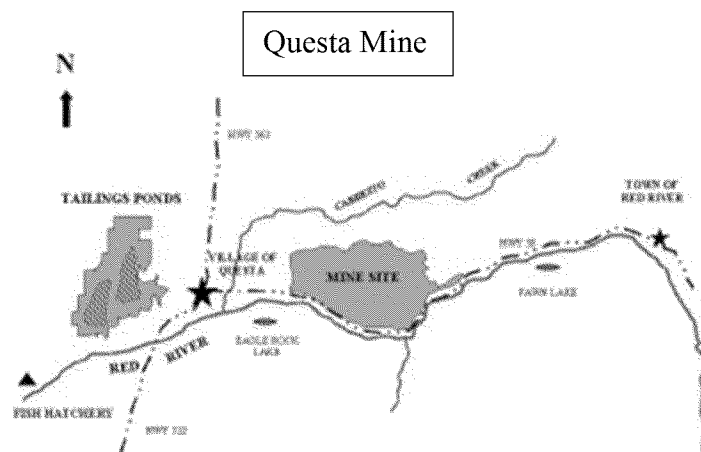
The work in the Consent Decree will include:

- ☐ **Tailing Facility Cover Demonstration Pilot Project:** CMI will regrade, cover and revegetate approximately 275 acres of the tailing facility with two feet of cover material. The Pilot Project will test whether two feet of cover will be protective of human health and the environment.
- ☐ **Surface-based Mine Dewatering System:** CMI will install a pumping system to keep the water level in the underground mine workings below the level of the Red River.
- ☐ **Mine Site Groundwater Extraction System:** CMI will install an additional extraction system to capture impacted groundwater before it reaches the Red River.
- ☐ **Mine Site Area Water Treatment Plant:** CMI is constructing a new water treatment plant at the Site which will be used to treat contaminated water prior to its discharge to the Red River.
- ☐ **Excavation of Soil at Dry/Maintenance Area:** CMI will excavate an area of soil where molybdenum levels in the soil are over 41 parts per million.

- **Seepage Barrier Upgrade:** Two seepage interception systems at the tailing facility have been operating since 1975 to limit contaminated groundwater from reaching the Red River. The seepage interceptor systems will be upgraded to improve capture of contaminated groundwater.
- **Tailing Facility Groundwater Extraction System:** Under the Removal Administrative Order on Consent (AOC), CMI began piping irrigation water into a diversion channel to keep it from becoming contaminated and seeping into groundwater. If this system does not result in a decrease of contamination in groundwater, CMI shall install a groundwater extraction well system to remove the contaminated groundwater.

SITE DESCRIPTION and HISTORY

The Site is located near the Village of Questa, in Taos County, New Mexico and includes a mine area and tailing facility. The mine area consists of a closed molybdenum mine and milling facility on three square miles of land currently owned by CMI in the Sangre de Cristo Mountains. The tailing facility, also owned by CMI, is on approximately two square miles of land west of the Village of Questa. A nine-mile-long tailing pipeline runs along State Highway 38 from the former milling facility to the tailing facility.



The mine site and tailing facility are bounded to the south by the Red River, a tributary of the Rio Grande. The Red River is home to a state fish hatchery located approximately one mile downstream of the tailing facility and is designated as a Wild and Scenic River from just below the hatchery to the confluence with the Rio Grande.

Over the years, numerous breaks in the pipeline resulted in the spilling of tailing into and along the floodplain of the Red River, threatening the fishery and nearby endangered species habitats. Additional threats to groundwater and surface water include seepage from the tailing facility and acidic, metal-laden water generated from the weathering of waste rock (referred to as acid rock drainage or ARD) at the Site. Contaminants of concern include aluminum, arsenic, cadmium, chromium, cobalt, copper, fluoride, iron, lead, manganese, molybdenum, sulfate and zinc.

The EPA's ROD was finalized on December 20, 2010, and provides a full description of Site contamination, risk assessment, remedial alternatives, and the selected remedy.

The EPA, the NMED and the Energy, Minerals and Natural Resources Department for New Mexico began overseeing cleanup work at the Site in 2012. The EPA and CMI entered into two agreements (administrative orders on consent or AOCs) in 2012 for cleanup work. CMI is still performing work required by the Removal and Early Design AOCs.

COMMUNITY PARTICIPATION

The EPA welcomes the opportunity to improve our communication efforts by obtaining feedback and suggestions from you. Do you have suggestions that can improve the exchange of information or ideas that can enhance the implementation of the removal efforts? If so, we want to hear from you. Information on how you can get involved is available in the "Where to Get More Information" section. Your participation can make a difference!

WHERE TO GET MORE INFORMATION

Gary Baumgarten

Region 6 Remedial Project Manager

U.S. Environmental Protection Agency

(214) 665-6749 or 1-800-533-3508 (Toll-free)

Laura Stankosky

Region 6 Remedial Project Manager

U. S. Environmental Protection Agency

(214) 665-7525 or 1-800-533-3508 (Toll-free)

Joseph Fox

Project Manager

New Mexico Environment Department

(505) 222-9560

**Janetta Coats
Region 6 Community Involvement Coordinator
Technical Assistance Grant (TAG), Project
Officer**

U. S. Environmental Protection Agency
(214) 665-7308 or 1-800-533-3508 (Toll-free)

Information Repositories

**The Administrative Record, including the
Record of Decision, for the Site is available at the
following locations:**

Village of Questa
2500 Old State Road 3
P. O. Box 260
Questa, New Mexico 87556
(575) 586-0694

New Mexico Environment Department
1190 St. Francis Dr.
Santa Fe, NM
(505) 827-2340

**Inquiries from the news media should be
directed to the EPA Region 6 External Affairs
Office at (214) 665-2200.**

**You can find more information about the
Superfund program on EPA's website:**
[https://www.epa.gov/science-and-technology/land-
waste-and-cleanup-science](https://www.epa.gov/science-and-technology/land-waste-and-cleanup-science)

A Site Profile for this site can be found at
www.epa.gov/superfund/chevron-questa-mine

The EPA wishes to thank the community members for their participation at all EPA community meetings and encourages everyone to attend the next meeting to be held by EPA. We will notify the community of the next community involvement event when it is scheduled.



Region 6
1445 Ross Ave. (6SF-VO)
Dallas, TX 75202

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LQFOXGHV FRYHULQJ DQG UHYHWDWLRQ DERXW ± → ↑ DFUHV RI WKH WDLOLQJ IDFLOLWY LPSURYH V\WWHPV WKDW SUHYHQV FRQWPLQWHG ZDWHU IURP UHDFKLQJ WKH 5HG 5LYHU DQG RSHUDWLRQ DQG I ZDWHU WUHDWPHQW SODQ 7KH VHWWOLQJ SDUWLHV ZLOO DQV RQVWUJ WKH UHFGV V CRQ WHUP ULVN WR KXPQ KHONK DQG WKH HQYLURQPHQW

7KH SURSRVHG VHWWPHQW DQQRXQHG WRGD\ IROORZV RQ D 6SWPEHU ± !! ¶ ↑ FRQHQW GHFUHH I WKH 8QVHG 6WUWH RQ EHDOI RI WKH 8 6)LVK DQG :LOGOLIH 6HUYLFH RI WKH 'HSDUWPHQW RUHV 6HUYLFH RI WKH 'HSDUWPHQW RI \$JULFXOWHU DQG WKH 6WUWH RQ EHDOI RI WKH 1H 1DWDUO 5HVRXUFH 7UXWH UHVRYLQJ FODLPV IRU QDWUDO UHVRXUFH GDPDJHV DW WKH 6WUWH GHFUHH & , SDLG FRUH WKDQ • ¶ ◀ ± PLOOLRQ IRU UHWULQJ UHSDFLQJ RU DFTXLULQJ QDW PLQH DFWLYLWY ◀ ± 7KH FXUHQW FRQHQW GHFUHH DGGUHVVH VSDUWH FODLPV IURP WKH QDWUDO FRQHQW GHFUHH

7KH 8KHUHQ 4XWWD OLQH SUHYLXV\ NQRZQ DV WKH ORQFRUS OLQH RSHUDHG LQWUPLWPHQW ± !! ¶ ± ZKHQ & , SHUPHQW\ FRVHG WKH PLQH OLQJ RSHUDWLRQV DQG ZDWH GLVSRVO VHGLPHQW VXUIDFH ZDWHU DQG JURXGZDWHU :KLOH WKH PLQH ZDV RSHUDWLRQ DSSUR[LPD RI DFLG JHQHUDWLRQ ZDWHU URFN ZHUH H[FODYHG DQG GSRVLVHG LQ OLQH QDUJH ZDWHU URFN SI FROEGHQP ZDV H[WUDVHG IURP RUH WKH WDLOLQJ ZDV WUDQSRVHG E\ SLSHOLQH WR D WDLOL GSRVLVHG LQ WDLOLQJ LPSRXQPHQW ◀ ±

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7KH SXEOLF KDV WKH RSSRUWOLW WR VXEPLW ZUWWHQ FRPPHQW RQ WKH FRQHQW GHFUHH ZKLF T !! ± GD\ FRPPHQW SHULRG DQG ILQD DSSURYDO E\ WKH FRXUW \$ FRS RI WKH FRQHQW GHFU DWZZ◀ MXWLFH JRY HQG FRQHQW GHFUHV

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3UHV 5HCHMH 1XPEHU ◀
¶ ± ± ±

8SGWHG \$XJWY ¶ ± !!

To: Noggle, William[Noggle.William@epa.gov]; Brown, Byron[brown.byron@epa.gov]; Darwin, Veronica[darwin.veronica@epa.gov]; Johnson, Barnes[Johnson.Barnes@epa.gov]
Cc: Breen, Barry[Breen.Barry@epa.gov]; Hostage, Barbara[Hostage.Barbara@epa.gov]; Cogliano, Gerain[Cogliano.Gerain@epa.gov]; Hilosky, Nick[Hilosky.Nick@epa.gov]; Brooks, Becky[Brooks.Becky@epa.gov]; Sasseville, Sonya[Sasseville.Sonya@epa.gov]; Farber, Glenn[Farber.Glenn@epa.gov]; Foster, Barbara[Foster.Barbara@epa.gov]; Barr, Linda[Barr.Linda@epa.gov]; Huggins, Richard[Huggins.Richard@epa.gov]; Michaud, John[Michaud.John@epa.gov]; Stachowiak, Robert[Stachowiak.Robert@epa.gov]
From: Bodine, Susan
Sent: Wed 11/29/2017 8:58:36 PM
Subject: RE: 108b - Action memo

I have no comments on the memo.

From: Noggle, William
Sent: Wednesday, November 29, 2017 3:55 PM
To: Brown, Byron <brown.byron@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Bodine, Susan <bodine.susan@epa.gov>; Johnson, Barnes <Johnson.Barnes@epa.gov>
Cc: Breen, Barry <Breen.Barry@epa.gov>; Hostage, Barbara <Hostage.Barbara@epa.gov>; Cogliano, Gerain <Cogliano.Gerain@epa.gov>; Hilosky, Nick <Hilosky.Nick@epa.gov>; Brooks, Becky <Brooks.Becky@epa.gov>; Sasseville, Sonya <Sasseville.Sonya@epa.gov>; Farber, Glenn <Farber.Glenn@epa.gov>; Foster, Barbara <Foster.Barbara@epa.gov>; Barr, Linda <Barr.Linda@epa.gov>; Huggins, Richard <Huggins.Richard@epa.gov>; Michaud, John <Michaud.John@epa.gov>; Stachowiak, Robert <Stachowiak.Robert@epa.gov>
Subject: 108b - Action memo

Susan, Veronica, Byron, and Barnes,

Could you please review the action memo and send comments/edits to Linda Barr, Barbara Foster, and me?

To all –

I was told Kevin is working the phones. If he contacts you, please direct him to me or OMB.

Thanks,

Bill

202-566-1306

To: Ford, Hayley[ford.hayley@epa.gov]
Cc: Fotouhi, David[Fotouhi.David@epa.gov]; Beck, Nancy[Beck.Nancy@epa.gov]
From: Bodine, Susan
Sent: Mon 10/16/2017 5:09:36 PM
Subject: Re: RCRA Briefing Today

I am flexible from 430 on

Sent from my iPhone

On Oct 16, 2017, at 1:05 PM, Ford, Hayley <ford.hayley@epa.gov> wrote:

He just had his 4:30-5PM slot open up with a hard stop at 5PM. If you guys want to go then, let me know if that works. Otherwise we can keep at 5:15 if you think you might run over a little or aren't free at 4:30.

Wanted to give you the option.

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

Cc: Traylor, Patrick[traylor.patrick@epa.gov]
To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]; DeLeon, Rafael[Deleon.Rafael@epa.gov]
From: Bodine, Susan
Sent: Wed 10/18/2017 6:23:37 PM
Subject: Fwd: Orange County North Basin
Orange County North Basin Administrative Settlement Agreement for Remedial Investigation Feasibility Study.100416.pdf
ATT00001.htm

See below **Ex. 5 - Attorney Client** Can
you follow up with the region on this?

Sent from my iPhone

Begin forwarded message:

From: "Fotouhi, David" <Fotouhi.David@epa.gov>
To: "Kelly, Albert" <kelly.albert@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>
Cc: "Falvo, Nicholas" <falvo.nicholas@epa.gov>, "Ferguson, Lincoln" <ferguson.lincoln@epa.gov>
Subject: Orange County North Basin

Kell, Susan, Patrick,

This morning, the Administrator met with representatives of the Orange County Water District about a site in northern Orange County, California known as the "North Basin" with a large area of groundwater contamination. The Water District entered into the attached agreement with EPA in October 2016 to conduct a remedial investigation and feasibility study to assess the groundwater contamination. The site is not on the NPL, and

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Ex. 5 - Attorney Client

Sylvia Quast, Regional Counsel in Region 9, is also familiar with the site and able to assist.

Best,

David

David Fotouhi

Deputy General Counsel

Office of General Counsel

U.S. Environmental Protection Agency

Tel: +1 202.564.1976

fotouhi.david@epa.gov

ORIGINAL

UNITED STATES
ENVIRONMENTAL PROTECTION AGENCY
REGION IX

IN THE MATTER OF:

ORANGE COUNTY
NORTH BASIN

and

ORANGE COUNTY WATER DISTRICT

Proceeding Under Sections 104, 107,
and 122 of the Comprehensive
Environmental Response, Compensation,
and Liability Act, 42 U.S.C. §§ 9604,
9607, and 9622.

U.S. EPA Docket No. 2016-03

**ADMINISTRATIVE SETTLEMENT
AGREEMENT FOR REMEDIAL
INVESTIGATION/FEASIBILITY
STUDY**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
ADMINISTRATIVE SETTLEMENT AGREEMENT
FOR REMEDIAL INVESTIGATION AND FEASIBILITY STUDY**

ADMINISTRATIVE SETTLEMENT AGREEMENT FOR REMEDIAL
INVESTIGATION AND FEASIBILITY STUDY
ORANGE COUNTY NORTH GROUNDWATER BASIN

I. JURISDICTION AND GENERAL PROVISIONS

1. This Administrative Settlement Agreement (Settlement Agreement) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and Orange County Water District (OCWD). The Settlement Agreement concerns the preparation and performance of a remedial investigation and feasibility study (RI/FS) for the northern portion of the Orange County groundwater basin that has been impacted by volatile organic compound contamination located generally within the Cities of Fullerton, Anaheim, and Placentia, and payment of Future Response Costs incurred by EPA in connection with the RI/FS.

2. This Settlement Agreement is issued under the authority vested in the President of the United States by Sections 104, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9604, 9607, and 9622 (CERCLA). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to Regional Administrators by EPA Delegation Nos. 14-14-C (Administrative Actions Through Consent Orders, Apr. 15, 1994) and 14-14-D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, May 11, 1994). These authorities were further redelegated by the Regional Administrator of EPA Region 9 to the Superfund Assistant Directors by Regional Delegation 1290.15 (September 29, 1997).

3. In accordance with Sections 104(b)(2) and 122(j)(1) of CERCLA, 42 U.S.C. §§ 9604(b)(2) and 9622(j)(1), EPA notified the California Department of Toxic Substances Control and the Santa Ana Regional Water Quality Control Board on December 2, 2015 of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under State trusteeship.

4. OCWD is a special water district created in 1933 by the State of California pursuant to the Orange County Water District Act. OCWD is a public entity with the authority to manage and protect the water resources in Orange County, California, including conducting investigations of water quality within the District. As such, OCWD is interested in undertaking the work described in this Settlement Agreement. EPA and OCWD recognize that this Settlement Agreement has been negotiated in good faith and that the actions undertaken by OCWD in accordance with this Settlement Agreement do not constitute an admission or any evidence of liability. OCWD does not admit, and retains the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement Agreement, the validity of the findings of fact in Section V and the conclusions of law and determinations in Section VI. OCWD agrees to comply with and be bound by the terms of this Settlement Agreement and further agrees that it will not contest the basis or validity of this Settlement Agreement or its terms.

II. PARTIES BOUND

5. This Settlement Agreement applies to and is binding upon EPA and upon OCWD and its successors and assigns. Any change in the form or status of OCWD, including but not limited to, any transfer of assets or real or personal property, shall not alter OCWD's responsibilities under this Settlement Agreement.

6. OCWD shall ensure that its contractors, subcontractors, and representatives receive a copy of this Settlement Agreement and comply with this Settlement Agreement. OCWD shall be responsible for any noncompliance with this Settlement Agreement.

7. Each undersigned representative of OCWD certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement Agreement and to execute and legally bind OCWD to this Settlement Agreement.

III. STATEMENT OF PURPOSE

8. In entering into this Settlement Agreement, the objectives of EPA and OCWD are: (a) to protect human health and the environment by preventing exposure to contaminated groundwater in the North Basin Study Area; (b) to determine the nature and extent of contamination and any threat to the public health, welfare, or the environment caused by the release or threatened release of hazardous substances, pollutants, or contaminants at or from the North Basin Study Area to support the development of an interim groundwater remedy to hydraulically contain contaminated groundwater originating from the majority of known or suspected sources in the North Basin Study Area, by conducting an initial Remedial Investigation as more specifically set forth in the Statement of Work (SOW) attached as Appendix A to this Settlement Agreement; (c) to identify and evaluate remedial alternatives for an interim groundwater remedy to hydraulically contain contaminated groundwater originating from the majority of known or suspected sources in the North Basin Study Area to prevent, mitigate, or otherwise respond to or remedy any release or threatened release of hazardous substances, pollutants, or contaminants at or from the Study Area, by conducting an initial Feasibility Study as more specifically set forth in the SOW in Appendix A to this Settlement Agreement; (d) to further characterize the full nature and extent of contamination in the North Basin Study Area downgradient of the interim groundwater remedy area, by conducting certain Remedial Investigation activities as specifically set forth in the SOW attached as Appendix A to this Settlement Agreement; and (e) to recover response and oversight costs incurred by EPA with respect to this Settlement Agreement.

9. The Work conducted under this Settlement Agreement is subject to approval by EPA and shall provide all appropriate and necessary information to assess Study Area conditions and evaluate alternatives to the extent necessary to select a remedy that will be consistent with CERCLA and the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300 (NCP). OCWD shall conduct all Work under this Settlement Agreement in compliance with CERCLA, the NCP, and all applicable EPA guidance, policies, and procedures.

IV. DEFINITIONS

Unless otherwise expressly provided in this Settlement Agreement, terms used in this Settlement Agreement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement Agreement or its appendices, the following definitions shall apply:

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

“DOJ” shall mean the United States Department of Justice and its successor departments, agencies, or instrumentalities.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the effective date of this Settlement Agreement as provided in Section XXVIII.

“EPA” shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“RWQCB” shall mean the California Regional Water Quality Control Board, Santa Ana Region, and any successor departments or agencies of the State.

“OCWD” shall mean Orange County Water District.

“DTSC” shall mean the California Department of Toxic Substances Control and any successor departments or agencies of the State.

“Engineering Controls” shall mean constructed containment barriers or systems that control one or more of the following: downward or lateral migration, infiltration, or seepage of surface runoff or rain; or natural leaching migration of contaminants through the subsurface over time. Examples include extraction wells and treatment systems, including conveyance systems needed to transport untreated and treated water, facilities for recharging treated groundwater, caps, engineered bottom barriers, immobilization processes, and vertical barriers.

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing plans, reports,

and other deliverables submitted pursuant to this Settlement Agreement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement Agreement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section XII (Access and Institutional Controls) (including, but not limited to, the cost of attorney time and any monies paid to secure access, including, but not limited to, the amount of just compensation), Paragraph 42 (emergency response), Paragraph 85 (Work takeover), community involvement (including, but not limited to, the costs of any technical assistance grant under Section 117(e) of CERCLA, 42 U.S.C. § 9617(e), and the costs incurred by the United States in enforcing the terms of this Settlement Agreement, including all costs incurred in connection with Section XV (Dispute Resolution), and all litigation costs.

“Institutional controls” shall mean non-engineered instruments, such as administrative and/or legal controls, that help to minimize the potential for human exposure to contamination and/or protect the integrity of a remedy by limiting land and/or resource use. Examples of institutional controls include easements and covenants, zoning restrictions, special building permit requirements, and well drilling prohibitions.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

“Municipal solid waste” or “MSW” shall mean waste material: (1) generated by a household (including a single or multifamily residence); or (2) generated by a commercial, industrial or institutional entity, to the extent that the waste material (i) is essentially the same as waste normally generated by a household; (ii) is collected and disposed of with other municipal solid waste as part of normal municipal solid waste collection services; and (iii) contains a relative quantity of hazardous substances no greater than the relative quantity of hazardous substances contained in waste material generated by a typical single-family household.

“NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“North Basin” shall mean the northern portion of the Orange County Groundwater Basin, located in Orange County, California, and depicted generally on the map attached as Appendix A.

“North Basin Special Account” shall mean the special account, within the EPA Hazardous Substance Superfund, established for the North Basin Study Area by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

“North Basin Study Area” or “Study Area” shall mean the area under investigation for the purposes of this Agreement.

“Paragraph” shall mean a portion of this Settlement Agreement identified by an Arabic numeral or an upper or lower case letter. References to paragraphs in the SOW will be so identified, e.g., “SOW Paragraph 15.”

“Parties” shall mean EPA and OCWD.

“RCRA” shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992.

“Sampling and Analysis Plan” or “SAP” shall mean the Sampling and Analysis Plan presented either as a single work plan or two separate plans that consist of the Quality Assurance and Project Plan (QAPP) and the Field Sampling Plan (FSP).

“Section” shall mean a portion of this Settlement Agreement identified by a Roman numeral. References to sections in the SOW will be so identified, e.g., “SOW Section V.”

“Settlement Agreement” shall mean this Administrative Settlement Agreement, the SOW, all appendices attached hereto (listed in Section XXVI) and all documents incorporated by reference into this document including without limitation EPA-approved submissions. EPA-approved submissions (other than progress reports) are incorporated into and become a part of the Settlement Agreement upon approval by EPA. In the event of conflict between this Settlement Agreement and any appendix or other incorporated documents, this Settlement Agreement shall control.

“State” shall mean the State of California.

“Statement of Work” or “SOW” shall mean the Statement of Work for development of a RI/FS for the North Basin, as set forth in Appendix A to this Settlement Agreement. The Statement of Work is incorporated into this Settlement Agreement and is an enforceable part of this Settlement Agreement as are any modifications made thereto in accordance with this Settlement Agreement.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Waste Material” shall mean (a) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (c) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

“Work” shall mean all activities OCWD is required to perform under this Settlement Agreement, except those required by Section XIV (Retention of Records).

V. FINDINGS OF FACT

10. The North Basin is located in the northern portion of Orange County, in the cities of Fullerton, Anaheim, and Placentia. The larger Orange County groundwater basin, of which the North Basin is a part, is within the 360-square-mile coastal plain of Orange County and supplies water to more than 20 cities and water agencies serving more than 2 million customers. This area includes a range of uses including commercial, industrial, and residential uses.

11. The Orange County Water District has characterized the Orange County Groundwater Basin as consisting of three hydraulically connected aquifer zones: Shallow, Principal, and Deep. In North Basin, the Shallow Aquifer system includes unconsolidated sediments extending to an average depth of approximately 200 feet below ground surface (bgs) and the Principal Aquifer system contains unconsolidated sediments extending to a depth of over 1000 feet. The depth to groundwater in the shallow aquifer ranges from approximately 80 to 120 feet bgs, with isolated areas of shallower, perched groundwater. Contamination with volatile organic compounds (VOCs) has been detected in the Shallow and Principal aquifers, and locally in perched groundwater.

12. In 2014, EPA was approached by state and local agencies - RWQCB, DTSC, and OCWD - to investigate potential risk to the North Basin's domestic water supply in the Shallow and Principal aquifers.

13. There are many source areas in the North Basin where historical industrial activity has contaminated the soil and groundwater with chemicals, including tetrachloroethene (PCE), trichloroethene (TCE), 1,1-dichloroethene (1,1-DCE), and 1,4-dioxane. The diverse array of industrial activities operating in this area includes electronics manufacturing, metals processing, aerospace manufacturing, musical instrument manufacturing, rubber and plastics manufacturing, and dry cleaning. Source cleanups are being conducted under State oversight at a number of current and former facilities. Some of these cleanups have been completed, and additional source identification and remediation at others may be required. During this RI/FS process, it is expected that State oversight of these cleanups will continue.

14. RWQCB is overseeing work and/or cleanup at six sites and oversight of initial investigation and/or remediation work at two other sites. An additional six sites are being addressed under DTSC oversight. Three of the DTSC sites have active, participating parties, and three are being cleaned up as "orphan sites"

15. Contamination associated with former industrial activity appears to have impacted both the shallow and principal aquifers. Four drinking water production wells impacted by contamination have been destroyed due to contaminant levels: Fullerton well F-FS13 (2002), Fullerton well F-KIM1 (2002), Anaheim well A-23 (2001) and private well BAST-F (2013).

16. Within the North Basin, 1,1-DCE has been detected in groundwater at concentrations up to 1,700 ug/L. PCE has been detected in groundwater at concentrations up to

3,300 ug/L. 1,4-dioxane has been detected in groundwater at concentrations up to 1,500 ug/L. TCE has been detected in groundwater at concentrations up to 23,000 ug/L.

17. OCWD is a special water district created by the State of California pursuant to the Orange County Water District Act. OCWD is a public entity undertaking the work described in this Settlement Agreement pursuant to its authority under said Act and to protect the water resources in Orange County, California; and

18. The North Basin is not listed on EPA's National Priorities List (NPL). In parallel with the RI/FS being conducted with this Agreement, EPA Region 9 is proceeding with its own evaluation of the contamination for potential NPL listing.

VI. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the Findings of Fact set forth in Section V, EPA has determined that:

19. The North Basin is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).

20. The contamination found at the North Basin, as identified in the Findings of Fact above, includes "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14) or constitutes "any pollutant or contaminant" that may present an imminent and substantial danger to public health or welfare under Section 104(a)(1) of CERCLA.

21. The conditions described in the Findings of Fact in Section V above constitute an actual and/or threatened "release" of a hazardous substance from the facility as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).

22. OCWD is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).

23. OCWD has been determined to be capable of conducting the actions set forth in this Agreement properly as provided in Section 122(a) of CERCLA, 42 U.S.C. § 9622(a). The actions required by this Settlement Agreement are necessary to protect the public health, welfare, or the environment, are in the public interest, 42 U.S.C. § 9622(a), are consistent with CERCLA and the NCP, 42 U.S.C. §§ 9604(a)(1), 9622(a), and will expedite effective remedial action and minimize litigation, 42 U.S.C. § 9622(a).

24. EPA has determined that OCWD is qualified to conduct the RI/FS within the meaning of Section 104(a) of CERCLA, 42 U.S.C. § 9604(a), and will carry out the Work properly and promptly, in accordance with Sections 104(a) and 122(a) of CERCLA, 42 U.S.C. §§ 9604(a) and 9622(a), if OCWD complies with the terms of this Settlement Agreement.

VII. SETTLEMENT AGREEMENT AND ORDER

25. Based upon the foregoing Findings of Fact and Conclusions of Law and Determinations, it is hereby Agreed that OCWD shall comply with all provisions of this Settlement Agreement, including, but not limited to, all appendices to this Settlement Agreement and all documents incorporated by reference into this Settlement Agreement.

VIII. DESIGNATION OF CONTRACTORS AND PROJECT COORDINATORS

26. Selection of Contractors, Personnel. All Work performed under this Settlement Agreement shall be under the direction and supervision of qualified personnel. Within 30 days after the Effective Date, and before the Work outlined below begins, OCWD shall notify EPA in writing of the names, titles, and qualifications of the personnel, including contractors, subcontractors, consultants, and laboratories to be used in carrying out such Work. With respect to any proposed contractor, OCWD shall demonstrate that the proposed contractor has a quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995, or most recent version), by submitting a copy of the proposed contractor's Quality Management Plan (QMP). The QMP should be prepared in accordance with "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001; Reissued May 2006) or equivalent documentation as determined by EPA. The qualifications of the persons undertaking the Work for OCWD shall be subject to EPA's review, for verification that such persons meet minimum technical background and experience requirements. This Settlement Agreement is contingent on OCWD's demonstration to EPA's satisfaction that OCWD is qualified to perform properly and promptly the actions set forth in this Settlement Agreement. If EPA disapproves in writing of any person's technical qualifications, OCWD shall notify EPA of the identity and qualifications of the replacements within 30 days after the written notice. If EPA subsequently disapproves of the replacement, EPA reserves the right to terminate this Settlement Agreement and to conduct a complete RI/FS, and to seek reimbursement for costs and penalties from OCWD. During the course of the RI/FS, OCWD shall notify EPA in writing of any changes or additions in the personnel used to carry out such Work, providing their names, titles, and qualifications. EPA shall have the same right to disapprove changes and additions to personnel as it has hereunder regarding the initial notification.

27. Within 14 days after the Effective Date, OCWD shall designate a Project Coordinator who shall be responsible for administration of all actions by OCWD required by this Settlement Agreement and shall submit to EPA the designated Project Coordinator's name, address, telephone number, and qualifications. To the greatest extent possible, the Project Coordinator shall be present on site or readily available during Work. EPA retains the right to disapprove of the designated Project Coordinator. If EPA disapproves of the designated Project Coordinator, OCWD shall retain a different Project Coordinator and shall notify EPA of that person's name, address, telephone number, and qualifications within 7 days following EPA's disapproval. OCWD shall have the right to change its Project Coordinator, subject to EPA's

right to disapprove. OCWD shall notify EPA 14 days before such a change is made. The initial notification may be made orally, but shall be promptly followed by a written notification. Receipt by OCWD's Project Coordinator of any notice or communication from EPA relating to this Settlement Agreement shall constitute receipt by OCWD.

28. EPA has designated Wayne Praskins of Region IX's Superfund Division as its Project Coordinator. EPA will notify OCWD of a change of its designated Project Coordinator. Except as otherwise provided in this Settlement Agreement, OCWD shall direct all submissions required by this Settlement Agreement to the Project Coordinator at US EPA Region IX, 75 Hawthorne Street, SFD-7-3, San Francisco, California, 94105, or Praskins.Wayne@epa.gov.

29. EPA's Project Coordinator shall have the authority lawfully vested in a Remedial Project Manager (RPM) and On-Scene Coordinator (OSC) by the NCP. In addition, EPA's Project Coordinator shall have the authority consistent with the NCP, to halt any Work required by this Settlement Agreement, and to take any necessary response action when s/he determines that conditions at the Study Area may present an immediate endangerment to public health or welfare or the environment. The absence of the EPA Project Coordinator from the area under study pursuant to this Settlement Agreement shall not be cause for the stoppage or delay of Work.

30. EPA shall arrange for a qualified person to assist in its oversight and review of the conduct of the RI/FS, as required by Section 104(a) of CERCLA, 42 U.S.C. § 9604(a). Such person shall have the authority to observe Work and make inquiries in the absence of EPA, but not to modify the RI/FS Work Plan.

IX. WORK TO BE PERFORMED

31. OCWD shall conduct the RI/FS in accordance with the provisions of this Settlement Agreement, the SOW, CERCLA, the NCP, and EPA guidance, including, but not limited to the "Interim Final Guidance for Conducting Remedial Investigations and Feasibility Studies under CERCLA" (RI/FS Guidance) (OSWER Directive # 9355.3-01, October 1988 or subsequently issued guidance), "Guidance for Data Useability in Risk Assessment" (OSWER Directive #9285.7-09A, April 1992 or subsequently issued guidance), and guidance referenced therein, and guidance referenced in the SOW, as may be amended or modified by EPA. The Remedial Investigation (RI) shall consist of collecting data to characterize North Basin conditions, determining the nature and extent of the contamination at or from the North Basin, assessing risk to human health and the environment, and conducting treatability testing as necessary to evaluate the potential performance and cost of the treatment technologies that are being considered. The Feasibility Study (FS) shall determine and evaluate (based on treatability testing, where appropriate) alternatives for remedial action to prevent, mitigate, or otherwise respond to or remedy the release or threatened release of hazardous substances, pollutants, or contaminants at or from the North Basin. The alternatives evaluated must include, but shall not be limited to, the range of alternatives described in the NCP, and shall include remedial actions that utilize permanent solutions and alternative treatment technologies or resource recovery

technologies to the maximum extent practicable. In evaluating the alternatives, OCWD shall address the factors required to be taken into account by Section 121 of CERCLA, 42 U.S.C. § 9621, and Section 300.430(e) of the NCP, 40 C.F.R. § 300.430(e).

32. OCWD shall submit all deliverables to EPA and the State in electronic form. If any deliverable includes maps, drawings, or other exhibits that are larger than 8.5" by 11", upon request by EPA, OCWD shall also provide EPA with paper copies of such exhibits.

33. Technical Specifications for Deliverables. Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable (EDD) format. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.

34. Spatial data, including spatially-referenced data and geospatial data, should be submitted: (1) in the ESRI File Geodatabase format; and (2) as unprojected geographic coordinates in decimal degree format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions should include the collection method(s). Projected coordinates may optionally be included but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (EME), complies with these FGDC and EPA metadata requirements and is available at <https://edg.epa.gov/EME/>.

35. Each file must include an attribute name for each unit or sub-unit submitted. Consult <http://www.epa.gov/geospatial/policies.html> for any further available guidance on attribute identification and naming.

36. Spatial data submitted by OCWD does not, and is not intended to, define the boundaries of the North Basin.

37. Upon receipt of the draft FS report, EPA will evaluate, as necessary, the estimates of the risk to the public and environment that are expected to remain after a particular remedial alternative has been completed and will evaluate the durability, reliability, and effectiveness of any proposed Institutional Controls.

38. Modification of the RI/FS Work Plan.

a. If at any time during the RI/FS process, OCWD identifies a need for additional data, OCWD shall submit a memorandum documenting the need for additional data to the EPA Project Coordinator within 14 days after identification. EPA in its discretion will determine whether the additional data will be collected by OCWD and whether it will be incorporated into plans, reports, and other deliverables.

b. In the event of unanticipated or changed circumstances in the Study Area, OCWD shall notify the EPA Project Coordinator by telephone within 24 hours of discovery of the unanticipated or changed circumstances. In the event that EPA determines that the unanticipated or changed circumstances warrant changes in the RI/FS Work Plan, EPA shall modify or amend the RI/FS Work Plan in writing accordingly. OCWD shall perform the RI/FS Work Plan as modified or amended.

c. EPA may determine that in addition to tasks defined in the initially approved RI/FS Work Plan, other additional Work may be necessary to accomplish the objectives of the RI/FS. OCWD agrees to perform these response actions in addition to those required by the initially approved RI/FS Work Plan, including any approved modifications, if EPA determines that such actions are necessary for a complete RI/FS.

d. OCWD shall confirm its willingness to perform the additional Work, in writing to EPA within 30 days after receipt of the EPA request. If OCWD objects to any modification determined by EPA to be necessary pursuant to this Paragraph, OCWD may seek dispute resolution pursuant to Section XV (Dispute Resolution). The SOW and/or RI/FS Work Plan shall be modified in accordance with the final resolution of the dispute.

e. OCWD shall complete the additional Work according to the standards, specifications, and schedule set forth or approved by EPA in a written modification to the RI/FS Work Plan or written RI/FS Work Plan supplement. EPA reserves the right to conduct the Work itself at any point, to seek reimbursement from OCWD, and/or to seek any other appropriate relief.

f. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions in the Study Area.

39. Off-Site Shipment.

a. OCWD may ship hazardous substances, pollutants and contaminants from the Study Area to an off-site facility only if they comply with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. OCWD will be deemed to be in compliance with CERCLA Section 121(d)(3) and 40 C.F.R. § 300.440 regarding a shipment if OCWD obtains a prior determination from EPA that the proposed receiving facility for such shipment is acceptable under the criteria of 40 C.F.R. § 300.440(b). OCWD may ship Investigation Derived Waste (IDW) from the North Basin to an off-site facility only if OCWD complies with EPA's "Guide to Management of Investigation Derived Waste," OSWER 9345.3-03FS (Jan. 1992).

b. OCWD may ship Waste Material from the North Basin to an out-of-state waste management facility only if, prior to any shipment, it provides written notice to the appropriate state environmental official in the receiving facility's state and to the EPA Project Coordinator. This written notice requirement shall not apply to any off-site shipments when the total quantity of all such shipments will not exceed ten cubic yards. The written notice must

include the following information, if available: (1) the name and location of the receiving facility; (2) the type and quantity of Waste Material to be shipped; (3) the schedule for the shipment; and (4) the method of transportation. OCWD also shall notify the state environmental official referenced above and the EPA Project Coordinator of any major changes in the shipment plan, such as a decision to ship the Waste Material to a different out-of-state facility. OCWD shall provide the written notice after the award of the contract for remedial investigation and feasibility study and before the Waste Material is shipped.

40. Meetings. OCWD shall make presentations at, and participate in, meetings at the request of EPA during the initiation, conduct, and completion of the RI/FS. In addition to discussion of the technical aspects of the RI/FS, topics will include anticipated problems or new issues. Meetings will be scheduled at EPA's discretion.

41. Progress Reports. In addition to the plans, reports, and other deliverables set forth in this Settlement Agreement, OCWD shall provide to EPA monthly progress reports by the 15th day of the following month. At a minimum, with respect to the preceding month, these progress reports shall (a) describe the actions that have been taken to comply with this Settlement Agreement during that month, (b) include all results of sampling and tests and all other data received by OCWD, (c) describe Work planned for the next two months with schedules relating such Work to the overall project schedule for RI/FS completion, and (d) describe all problems encountered and any anticipated problems, any actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

42. Emergency Response and Notification of Releases.

a. In the event of any action or occurrence during, arising from, or relating to performance of the Work that causes or threatens a release of Waste Material from the Study Area that constitutes an emergency situation or may present an immediate threat to public health or welfare or the environment, OCWD shall immediately take all appropriate action. OCWD shall take these actions in accordance with all applicable provisions of this Settlement Agreement, including, but not limited to, the Health and Safety Plan, in order to prevent, abate or minimize such release or endangerment caused or threatened by the release. OCWD shall also immediately notify the EPA Project Coordinator or, in the event of his/her unavailability, the OSC or the Regional Duty Officer at (415) 947-4400 of the incident or conditions. In the event that OCWD fails to take appropriate response action as required by this Paragraph, and EPA takes such action instead, OCWD shall reimburse EPA all costs of the response action not inconsistent with the NCP pursuant to Section XVIII (Payment of Response Costs).

b. In addition, in the event of any release of a hazardous substance from the Study Area, OCWD shall immediately notify the EPA Project Coordinator, the OSC, or Regional Duty Officer at (415) 947-4400 and the National Response Center at (800) 424-8802. OCWD shall submit a written report to EPA within 7 days after each release, setting forth the events that occurred and the measures taken or to be taken to mitigate any release or endangerment caused or threatened by the release and to prevent the reoccurrence of such a release. This reporting

requirement is in addition to, and not in lieu of, reporting under Section 103(c) of CERCLA, 42 U.S.C. § 9603(c), and Section 304 of the Emergency Planning and Community Right-To-Know Act of 1986, 42 U.S.C. § 11004, *et seq.*

X. EPA APPROVAL OF PLANS AND OTHER SUBMISSIONS

43. After review of any plan, report, or other item that is required to be submitted for approval pursuant to this Settlement Agreement, in a notice to OCWD, EPA shall: (a) approve, in whole or in part, the submission; (b) approve the submission upon specified conditions; (c) modify the submission to cure the deficiencies; (d) disapprove, in whole or in part, the submission, directing that OCWD modify the submission; or (e) any combination of the above. However, EPA shall not modify a submission without first providing OCWD at least one notice of deficiency and an opportunity to cure within 14 days, except where to do so would cause serious disruption to the Work or where previous submission(s) have been disapproved due to material defects.

44. In the event of approval, approval upon conditions, or modification by EPA, pursuant to Paragraph 43.a, 43.b, 43.c, or 43.e, OCWD shall proceed to take any action required by the plan, report, or other deliverable, as approved or modified by EPA subject only to its right to invoke the Dispute Resolution procedures set forth in Section XV (Dispute Resolution) with respect to the modifications or conditions made by EPA. Following EPA approval or modification of a submission or portion thereof, OCWD shall not thereafter alter or amend such submission or portion thereof unless directed by EPA. In the event that EPA modifies the submission to cure the deficiencies pursuant to Paragraph 43.c and the submission had a material defect, EPA retains the right to seek stipulated penalties, as provided in Section XVI (Stipulated Penalties).

45. Resubmission.

a. Upon receipt of a notice of disapproval, OCWD shall, within 30 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the plan, report, or other deliverable for approval. Any stipulated penalties applicable to the submission, as provided in Section XVI, shall accrue during the 14-day period or otherwise specified period but shall not be payable unless the resubmission is disapproved or modified due to a material defect as provided in Paragraphs 46 and 47, respectively. Notwithstanding the receipt of a notice of disapproval, OCWD shall proceed to take any action required by any non-deficient portion of the submission, unless otherwise directed by EPA. Implementation of any non-deficient portion of a submission shall not relieve OCWD of any liability for stipulated penalties under Section XVI (Stipulated Penalties).

b. OCWD shall not proceed with any activities or tasks dependent on the following deliverables until receiving EPA approval, approval on condition, or modification of such deliverables: RI/FS Work Plan and Sampling and Analysis Plan, Groundwater Flow Modeling Plan, Groundwater Flow Monitoring Report, Risk Assessment Technical

Memorandum, ARARs Technical Memorandum, Remedial Investigation Report and Treatability Testing Work Plan, Treatability Testing Sampling and Analysis Plan, Treatability Testing Health and Safety Plan, Remedial Alternatives Identification and Screening Technical Memorandum, Detailed Analysis of Remedial Alternatives Technical Memorandum, and Feasibility Study Report. While awaiting EPA approval, approval on condition, or modification of these deliverables, OCWD shall proceed with all other tasks and activities that may be conducted independently of these deliverables, in accordance with the schedule set forth under this Settlement Agreement.

c. For all remaining deliverables not listed above in Paragraph 45.b, OCWD shall proceed with all subsequent tasks, activities, and deliverables without awaiting EPA approval on the submitted deliverable. EPA reserves the right to stop OCWD from proceeding further, either temporarily or permanently, on any task, activity or deliverable at any point during the RI/FS.

46. If EPA disapproves a resubmitted plan, report, or other deliverable, or portion thereof, EPA may again direct OCWD to correct the deficiencies. EPA shall also retain the right to modify or develop the plan, report, or other deliverable. OCWD shall implement any such plan, report, or deliverable as corrected, modified, or developed by EPA, subject only to OCWD's right to invoke the procedures set forth in Section XV (Dispute Resolution).

47. If upon resubmission, a plan, report, or other deliverable is disapproved or modified by EPA due to a material defect, OCWD shall be deemed to have failed to submit such plan, report, or other deliverable timely and adequately unless OCWD invokes the dispute resolution procedures in accordance with Section XV (Dispute Resolution) and EPA's action is revoked or substantially modified pursuant to a Dispute Resolution decision issued by EPA or superseded by an agreement reached pursuant to that Section. The provisions of Section XV (Dispute Resolution) shall govern the implementation of the Work and accrual and payment of any stipulated penalties during Dispute Resolution.

48. In the event that EPA takes over some of the tasks, but not the preparation of the RI Report or the FS Report, OCWD shall incorporate and integrate information supplied by EPA into the final reports.

49. All plans, reports, and other deliverables submitted to EPA under this Settlement Agreement shall, upon approval or modification by EPA, be incorporated into and enforceable under this Settlement Agreement. In the event EPA approves or modifies a portion of a plan, report, or other deliverable submitted to EPA under this Settlement Agreement, the approved or modified portion shall be incorporated into and enforceable under this Settlement Agreement.

50. Neither failure of EPA to expressly approve or disapprove of OCWD's submissions within a specified time period, nor the absence of comments, shall be construed as approval by EPA. Whether or not EPA gives express approval for OCWD's deliverables, OCWD is responsible for preparing deliverables acceptable to EPA.

XI. QUALITY ASSURANCE, SAMPLING, AND ACCESS TO INFORMATION

51. Quality Assurance. OCWD shall assure that Work performed, samples taken, and analyses conducted conform to the requirements of the SOW, the Sampling and Analysis Plan (SAP), and guidance identified therein. OCWD will assure that field personnel used by OCWD are properly trained in the use of field equipment and in chain of custody procedures. OCWD shall only use laboratories that have a documented quality system that complies with "EPA Requirements for Quality Management Plans (QA/R-2)" (EPA/240/B-01/002, March 2001; Reissued May 2006) or equivalent documentation as determined by EPA.

52. Sampling.

a. All results of sampling, tests, modeling, or other data (including raw data) generated by OCWD, or on OCWD's behalf, during the period that this Settlement Agreement is effective, shall be submitted to EPA in the next monthly progress report as described in Paragraph 41 (unless previously submitted in a separate document). EPA will make available to OCWD validated data generated by EPA unless it is exempt from disclosure by any federal or state law or regulation.

b. OCWD shall orally notify EPA and the State at least 14 days prior to conducting significant field events as described in the SOW, RI/FS Work Plan, or Sampling and Analysis Plan. At EPA's oral or written request, or the request of EPA's oversight assistant, OCWD shall allow split or duplicate samples to be taken by EPA (and its authorized representatives) or the State of any samples collected in implementing this Settlement Agreement. All split samples of OCWD shall be analyzed by the methods identified in the QAPP.

53. Access to Information.

a. OCWD shall make available to EPA and the State, copies of all records, reports, documents, and other information (including records, reports, documents, and other information in electronic form) (hereinafter referred to as Records) within its possession or control or that of its contractors or agents relating to activities at the Study Area or to the implementation of this Settlement Agreement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. OCWD shall also make available to EPA and the State, for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

b. OCWD may assert business confidentiality claims covering part or all of the Records submitted to EPA and the State under this Settlement Agreement to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Records determined to be confidential by EPA will be afforded the

protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA and the State, or if EPA has notified OCWD that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such Records without further notice to OCWD. OCWD shall segregate and clearly identify all Records submitted under this Settlement Agreement for which OCWD asserts confidentiality claims.

c. OCWD may assert that certain Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If OCWD asserts such a privilege in lieu of providing Records, it shall provide EPA and the State with the following: (i) the title of the Record; (ii) the date of the Record; (iii) the name, title, affiliation (e.g., company or firm), and address of the author of the Record; (iv) the name and title of each addressee and recipient; (v) a description of the contents of the Record; and (vi) the privilege asserted by OCWD. However, no Records created or generated pursuant to the requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged or confidential.

d. No claim of confidentiality shall be made with respect to any data, including, but not limited to, all sampling, analytical, monitoring, hydrogeologic, scientific, chemical, or engineering data, or any other Records evidencing conditions at or around the Study Area.

54. In entering into this Settlement Agreement, OCWD waives any objections to any data gathered, generated, or evaluated by EPA, the State or OCWD in the performance or oversight of the Work that has been verified according to the quality assurance/quality control (QA/QC) procedures required by the Settlement Agreement or any EPA-approved RI/FS Work Plans or Sampling and Analysis Plans. If OCWD objects to any other data relating to the RI/FS, OCWD shall submit to EPA a report that specifically identifies and explains its objections, describes the acceptable uses of the data, if any, and identifies any limitations to the use of the data. The report must be submitted to EPA within 15 days after submittal of the document containing the data.

XII. ACCESS AND INSTITUTIONAL CONTROLS

55. If any property where access is needed to implement this Settlement Agreement, is owned or controlled by OCWD, OCWD shall, commencing on the Effective Date, provide EPA, the State, and their representatives, including contractors, with access at all reasonable times to such property for the purpose of conducting any activity related to this Settlement Agreement.

56. Where any action under this Settlement Agreement is to be performed in areas owned by or in possession of someone other than OCWD, OCWD shall use its best efforts to obtain all necessary access agreements within 30 days after the Effective Date, or as otherwise specified in writing by the EPA Project Coordinator. OCWD shall immediately notify EPA if

after using its best efforts they are unable to obtain such agreements. For purposes of this Paragraph, "best efforts" includes the payment of reasonable sums of money in consideration of access. OCWD shall describe in writing its efforts to obtain access. If OCWD cannot obtain access agreements, EPA may either (a) obtain access for OCWD or assist OCWD in gaining access, to the extent necessary to effectuate the response actions described in this Settlement Agreement, using such means as EPA deems appropriate; (b) perform those tasks or activities with EPA contractors; or (c) terminate the Settlement Agreement.

57. Notwithstanding any provision of this Settlement Agreement, EPA retains all of its access authorities and rights as well as all of its rights to require land/water use restrictions, including enforcement authorities related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

XIII. COMPLIANCE WITH OTHER LAWS

58. OCWD shall comply with all applicable state and federal laws and regulations when performing the RI/FS. No local, state, or federal permit shall be required for any portion of any action conducted entirely on-site, including studies, if the action is selected and carried out in compliance with Section 121 of CERCLA, 42 U.S.C. § 9621. Where any portion of the Work is to be conducted off-site and requires a federal or state permit or approval, OCWD shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals. This Settlement Agreement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

XIV. RETENTION OF RECORDS

59. During the pendency of this Settlement Agreement and for a minimum of 10 years after commencement of construction of any remedial action, OCWD shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in its possession or control or that come into its possession or control that relate in any manner to the performance of the Work or the liability of any person under CERCLA with respect to the North Basin, regardless of any corporate retention policy to the contrary. Until 10 years after commencement of construction of any remedial action, OCWD shall also instruct its contractors and agents to preserve all Records of whatever kind, nature, or description relating to performance of the Work.

60. At the conclusion of this document retention period, OCWD shall notify EPA at least 90 days prior to the destruction of any such Records, and, upon request by EPA, OCWD shall deliver any such Records to EPA. OCWD may assert that certain Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If OCWD asserts such a privilege, it shall provide EPA with the following: (a) the title of the Record; (b) the date of the Record; (c) the name and title of the author of the Record; (d) the name and title of each addressee and recipient; (e) a description of the subject of the Record; and (f) the privilege asserted by OCWD. However, no Records created or generated pursuant to the

requirements of this Settlement Agreement shall be withheld on the grounds that they are privileged or confidential.

61. OCWD hereby certifies that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to the North Basin since the issuance of the invitation letter by EPA regarding this Settlement Agreement and the SOW for the RI/FS for the North Basin and that it has fully complied with any and all EPA and State requests for information regarding the North Basin pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927, and state law.

XV. DISPUTE RESOLUTION

62. Unless otherwise expressly provided for in this Settlement Agreement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement Agreement. The Parties shall attempt to resolve any disagreements concerning this Settlement Agreement expeditiously and informally.

63. If OCWD objects to any EPA action taken pursuant to this Settlement Agreement, including billings for Future Response Costs, it shall notify EPA in writing of its objection(s) within 15 days after such action, unless the objection(s) has/have been resolved informally. EPA and OCWD shall have 60 days from EPA's receipt of OCWD's written objection(s) to resolve the dispute (the Negotiation Period). The Negotiation Period may be extended at the sole discretion of EPA. Such extension may be granted orally but must be confirmed in writing.

64. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement Agreement. If the Parties are unable to reach an agreement within the Negotiation Period, an EPA management official at the Assistant Director level or higher will issue a written decision. EPA's decision shall be incorporated into and become an enforceable part of this Settlement Agreement. OCWD's obligations under this Settlement Agreement shall not be tolled by submission of any objection for dispute resolution under this Section. Following resolution of the dispute, as provided by this Section, OCWD shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with EPA's decision, whichever occurs, and regardless of whether OCWD agrees with the decision.

XVI. STIPULATED PENALTIES

65. OCWD shall be liable to EPA for stipulated penalties in the amounts set forth in Paragraphs 66 and 67 for failure to comply with any of the requirements of this Settlement Agreement specified below unless excused under Section XVI (Force Majeure). "Compliance" by OCWD shall include completion of the Work under this Settlement Agreement or any activities contemplated under any RI/FS Work Plan or other plan approved under this Settlement Agreement identified below, in accordance with all applicable requirements of law, this

Settlement Agreement, the SOW, and any plans or other documents approved by EPA pursuant to this Settlement Agreement and within the specified time schedules established by and approved under this Settlement Agreement.

66. Stipulated Penalty Amounts - Work (Including Payments).

a. The following stipulated penalties shall accrue per day for any noncompliance identified in Paragraph 66.b:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 100	1st through 14th day
\$ 300	15th through 30th day
\$ 750	31st day and beyond

b. Compliance Milestones.

- (1) Payment of Future Response Costs
- (2) Submittal of Draft and Final RI/FS Work Plan (SOW Section 3.1)
- (3) Submittal of Draft and Final Field Sampling and Analysis Plan (SOW Section 3.2.1)
- (4) Submittal of Draft and Final Groundwater Flow Modeling Report (SOW Sections 3.4, 3.5, and 3.6)
- (5) Submittal of Risk Assessment Technical Memorandum (SOW Section 3.11)
- (6) Submittal of Draft and Final RI Report (SOW Section 3.7)
- (7) Submittal of Remedial Alternatives Technical Memoranda (SOW Sections 3.8 and 3.9)
- (8) Submittal of Draft and Final FS Report (SOW Section 3.12)

67. Stipulated Penalty Amounts - Reports.

The following stipulated penalties shall accrue per violation per day for failure to submit timely or adequate reports or other plans or deliverables, other than those referenced in Paragraph 66.b., pursuant to this Settlement Agreement:

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$ 250	1st through 14th day
\$ 500	15th through 30th day
\$ 1,000	31st day and beyond

68. In the event that EPA assumes performance of a portion or all of the Work pursuant to Paragraph 85 (Work Takeover), Respondents shall be liable for a stipulated penalty in the amount of \$50,000.

69. All penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Section X (EPA Approval of Plans and Other Submissions), during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies OCWD of any deficiency; and (b) with respect to a decision by the EPA management official designated in Paragraph 64 of Section XV (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that the EPA management official issues a final decision regarding such dispute. Nothing in this Settlement Agreement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement Agreement.

70. Following EPA's determination that OCWD has failed to comply with a requirement of this Settlement Agreement, EPA may give OCWD written notification of the same and describe the noncompliance. EPA may send OCWD a written demand for the payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified OCWD of a violation.

71. All penalties accruing under this Section shall be due and payable to EPA within 30 days after OCWD's receipt from EPA of a demand for payment of the penalties, unless OCWD invokes the dispute resolution procedures under Section XV (Dispute Resolution). OCWD shall make all payments required by this Paragraph to EPA by Fedwire Electronic Funds Transfer to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

and shall reference stipulated penalties, Site/Spill ID Number A9AN, and the EPA docket number for this action. At the time of payment, OCWD shall send notice that payment has been made as provided in Paragraph 79.b below.

72. The payment of penalties shall not alter in any way OCWD's obligation to complete performance of the Work required under this Settlement Agreement.

73. Penalties shall continue to accrue as provided in Paragraph 69 during any dispute resolution period, but need not be paid until 15 days after the dispute is resolved by agreement or by receipt of EPA's decision.

74. If OCWD fails to pay stipulated penalties when due, EPA may institute proceedings to collect the penalties, as well as Interest. OCWD shall pay Interest on the unpaid balance, which shall begin to accrue on the date of demand made pursuant to Paragraph 71.

75. Nothing in this Settlement Agreement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of OCWD's violation of this Settlement Agreement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(I) of CERCLA, 42 U.S.C. § 9622(I), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3). Provided, however, that EPA shall not seek civil penalties pursuant to Section 122(I) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Settlement Agreement, except in the case of willful violation of this Settlement Agreement or in the event that EPA assumes performance of a portion or all of the Work pursuant to Section XX (Reservation of Rights by EPA), Paragraph 85. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement Agreement.

XVII. FORCE MAJEURE

76. OCWD agrees to perform all requirements of this Settlement Agreement within the time limits established under this Settlement Agreement, unless the performance is delayed by a *force majeure*. For purposes of this Settlement Agreement, *force majeure* is defined as any event arising from causes beyond the control of OCWD or of any entity controlled by OCWD, including but not limited to its contractors and subcontractors, which delays or prevents performance of any obligation under this Settlement Agreement despite OCWD's best efforts to fulfill the obligation. *Force majeure* does not include financial inability to complete the Work or increased cost of performance.

77. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement Agreement, whether or not caused by a *force majeure* event, OCWD shall notify EPA orally within five (5) business days of when OCWD first knew that the event might cause a delay. Within seven (7) days thereafter, OCWD shall provide to EPA in

writing an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; OCWD's rationale for attributing such delay to a *force majeure* event if it intends to assert such a claim; and a statement as to whether, in the opinion of OCWD, such event may cause or contribute to an endangerment to public health, welfare, or the environment. Failure to comply with the above requirements shall preclude OCWD from asserting any claim of *force majeure* for that event for the period of time of such failure to comply and for any additional delay caused by such failure.

78. If EPA agrees that the delay or anticipated delay is attributable to a *force majeure* event, the time for performance of the obligations under this Settlement Agreement that are affected by the *force majeure* event will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the *force majeure* event shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a *force majeure* event, EPA will notify OCWD in writing of its decision. If EPA agrees that the delay is attributable to a *force majeure* event, EPA will notify OCWD in writing of the length of the extension, if any, for performance of the obligations affected by the *force majeure* event.

XVIII. PAYMENT OF RESPONSE COSTS

79. Payments of Future Response Costs.

a. OCWD shall pay EPA all Future Response Costs not inconsistent with the NCP. On a periodic basis, EPA will send OCWD a bill requiring payment that includes a Regional SCORPIOS cost summary, which includes direct and indirect costs incurred by EPA, its contractors, and DOJ. OCWD shall make all payments within 30 days after receipt of each bill requiring payment, except as otherwise provided in Paragraph 81 of this Settlement Agreement. Payments shall be made to EPA by Fedwire Electronic Funds Transfer ("EFT") to:

Federal Reserve Bank of New York
ABA = 021030004
Account = 68010727
SWIFT address = FRNYUS33
33 Liberty Street
New York NY 10045
Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental Protection Agency"

and shall reference Site/Spill ID Number A9AN and the EPA docket number for this action.

b. At the time of payment, OCWD shall send notice that payment has been made to Wayne Praskins by email at Praskins.Wayne@epa.gov, and to the EPA Cincinnati Finance Center by email at cinwd_acctsreceivable@epa.gov, or by mail to

EPA Cincinnati Finance Office
26 W. Martin Luther King Drive
Cincinnati, Ohio 45268

Such notice shall reference Site/Spill ID Number A9AN and the EPA docket number for this action.

c. The total amount to be paid by OCWD pursuant to Paragraph 79.a may be deposited by EPA in the North Basin Special Account to be retained and used to conduct or finance response actions at or in connection with the North Basin, or to be transferred by EPA to the EPA Hazardous Substance Superfund, provided, however, that EPA may deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund if, at the time the payment is received, EPA estimates that the North Basin Special Account balance is sufficient to address currently anticipated future response actions to be conducted or financed by EPA at or in connection with the North Basin. Any decision by EPA to deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund for this reason shall not be subject to challenge by OCWD pursuant to the dispute resolution provisions of this Settlement or in any other forum.

80. Interest. If OCWD does not pay Future Response Costs within 30 days after OCWD's receipt of a bill, OCWD shall pay Interest on the unpaid balance. The Interest unpaid Future Response Costs shall begin to accrue on the date of the bill and shall continue to accrue until the date of payment. If EPA receives a partial payment, Interest shall accrue on any unpaid balance. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of OCWD's failure to make timely payments under this Section. OCWD shall make all payments required by this Paragraph in the manner described in Paragraph 79.

81. OCWD may contest payment of any costs billed under Paragraph 79 if it determines that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if it believes EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. Such objection shall be made in writing within 30 days after receipt of the bill and must be sent to the EPA Project Coordinator. Any such objection shall specifically identify the contested Future Response Costs and the basis for objection. In the event of an objection, OCWD shall within the 30 day period pay all uncontested Future Response Costs to EPA in the manner described in Paragraph 79. Simultaneously, OCWD shall establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation, and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. OCWD shall send to the EPA Project Coordinator a copy of the

transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. Simultaneously with establishment of the escrow account, OCWD shall initiate the Dispute Resolution procedures in Section XV (Dispute Resolution). If EPA prevails in the dispute, within 5 days after the resolution of the dispute, OCWD shall pay the sums due (with accrued interest) to EPA in the manner described in Paragraph 79. If OCWD prevails concerning any aspect of the contested costs, OCWD shall pay that portion of the costs (plus associated accrued interest) for which it did not prevail to EPA in the manner described in Paragraph 79. OCWD shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XV (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding OCWD's obligation to reimburse EPA for its Future Response Costs. Nothing herein limits the ability of the State to seek reimbursement of its costs related to ongoing oversight of investigations and cleanups at facilities within the Study Area or to seek reimbursement of costs related to activities performed under this Settlement Agreement.

XIX. COVENANT NOT TO SUE BY EPA

82. In consideration of the actions that will be performed and the payments that will be made by OCWD under the terms of this Settlement Agreement, and except as otherwise specifically provided in this Settlement Agreement, EPA covenants not to sue or to take any administrative action against OCWD pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work and Future Response Costs. This covenant not to sue shall take effect upon the Effective Date. This covenant not to sue is conditioned upon the complete and satisfactory performance by OCWD of its obligations under this Settlement Agreement, including, but not limited to, payment of Future Response Costs pursuant to Paragraph 79 (Payment of Future Response Costs). This covenant not to sue extends only to OCWD and does not extend to any other person.

XX. RESERVATIONS OF RIGHTS BY EPA

83. Except as specifically provided in this Settlement Agreement, nothing in this Settlement Agreement shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from the Study Area. Further, nothing in this Settlement Agreement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement Agreement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring OCWD or any other person in the future to perform additional activities pursuant to CERCLA or any other applicable law.

84. The covenant not to sue set forth in Section XIX above does not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement Agreement is without prejudice to, all rights against OCWD with respect to all other matters, including, but not limited to:

- a. liability for failure by OCWD to meet a requirement of this Settlement Agreement;
- b. liability for costs not included within the definitions of Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for violations of federal or state law that occur during or after implementation of the Work;
- f. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;
- g. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the North Basin; and
- h. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the North Basin not paid as Future Response Costs under this Settlement Agreement.

85. Work Takeover. In the event EPA determines that OCWD has ceased implementation of any portion of the Work, are seriously or repeatedly deficient or late in its performance of the Work, or are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may assume the performance of all or any portion of the Work as EPA determines necessary. OCWD may invoke the procedures set forth in Section XV (Dispute Resolution) to dispute EPA's determination that takeover of the Work is warranted under this Paragraph. Notwithstanding any other provision of this Settlement Agreement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

XXI. COVENANT NOT TO SUE BY OCWD

86. OCWD covenants not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Future Response Costs, or this Settlement Agreement, including, but not limited to:

a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of the Work or arising out of the response actions for which the Future Response Costs have or will be incurred, including any claim under the United States Constitution, the State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law; or

c. any claim pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law relating to the Work or payment of Future Response Costs.

87. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to the reservations set forth in Section XX (Reservations of Rights by EPA), other than in Paragraph 84.a (liability for failure to meet a requirement of the Settlement Agreement) or 84.d (criminal liability), but only to the extent that OCWD's claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

88. OCWD reserves, and this Settlement Agreement is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of OCWD's plans, reports, other deliverables, or activities.

89. Nothing in this Agreement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

XXII. OTHER CLAIMS

90. By issuance of this Settlement Agreement, the United States and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of OCWD.

91. Nothing in this Settlement Agreement constitutes a satisfaction of or release from any claim or cause of action against any person not a party to this Settlement Agreement, for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages, and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

92. No action or decision by EPA pursuant to this Settlement Agreement shall give rise to any right to judicial review except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

XXIII. EFFECT OF SETTLEMENT/CONTRIBUTION

93. Nothing in this Settlement Agreement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement Agreement. Except as provided in Section XXI (Covenant Not to Sue by OCWD), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Study Area against any person not a Party hereto. Nothing in this Settlement Agreement diminishes the right of the United States pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

94. The Parties agree that this Settlement Agreement constitutes an administrative settlement pursuant to which OCWD has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement Agreement. The "matters addressed" in this Settlement Agreement are the Work and Future Response Costs.

95. The Parties further agree that this Settlement Agreement constitutes an administrative settlement pursuant to which OCWD has, as of the Effective Date, resolved liability to the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

96. OCWD shall, with respect to any suit or claim brought by it for matters related to this Settlement Agreement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. OCWD also shall, with respect to any suit or claim brought against it for matters related to this Settlement Agreement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, OCWD shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement Agreement.

97. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the Study Area, OCWD shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant by EPA set forth in Section XIX.

XXIV. INDEMNIFICATION

98. OCWD shall indemnify, save and hold harmless the United States, its officials, agents, contractors, subcontractors, employees, and representatives from any and all claims or causes of action arising from, or on account of negligent or other wrongful acts or omissions of OCWD, its officers, directors, employees, agents, contractors, subcontractors, and representatives in carrying out actions pursuant to this Settlement Agreement. In addition, OCWD agrees to pay the United States all costs incurred by the United States, including but not limited to attorneys' fees and other expenses of litigation and settlement, arising from or on account of claims made against the United States based on negligent or other wrongful acts or omissions of OCWD, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on its behalf or under its control, in carrying out activities pursuant to this Settlement Agreement. The United States shall not be held out as a party to any contract entered into by or on behalf of OCWD in carrying out activities pursuant to this Settlement Agreement. Neither OCWD nor any such contractor shall be considered an agent of the United States.

99. The United States shall give OCWD notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with OCWD prior to settling such claim.

100. OCWD waives all claims against the United States for damages or reimbursement or for set-off of any payments made or to be made to the United States, arising from or on account of any contract, agreement, or arrangement between OCWD and any person for performance of Work on or relating to the Study Area. In addition, OCWD shall indemnify and hold harmless the United States with respect to any and all claims for damages or reimbursement arising from or on account of any contract, agreement, or arrangement between OCWD and any person for performance of Work on or relating to the Study Area.

XXV. INSURANCE

101. At least 30 days prior to commencing any on-site Work under this Settlement Agreement, OCWD shall secure, and shall maintain for the duration of this Settlement Agreement, commercial general liability insurance with limits of \$2 million dollars, for any one occurrence, and automobile insurance with limits of \$1 million dollars, combined single limit, naming the EPA as an additional insured with respect to all liability arising out of the activities

performed by or on behalf of OCWD pursuant to this Settlement Agreement. Within the same period, OCWD shall provide EPA with certificates of such insurance and a copy of each insurance policy. OCWD shall submit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement Agreement, OCWD shall satisfy, or shall ensure that its contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of OCWD in furtherance of this Settlement Agreement. If OCWD demonstrates by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in an equal or lesser amount, then OCWD need provide only that portion of the insurance described above which is not maintained by such contractor or subcontractor.

XXVI. INTEGRATION/APPENDICES

102. This Settlement Agreement and its appendices and any deliverables, technical memoranda, specifications, schedules, documents, plans, reports (other than progress reports), etc. that will be developed pursuant to this Settlement Agreement and become incorporated into and enforceable under this Settlement Agreement constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement Agreement. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement Agreement. The following appendices are attached to and incorporated into this Settlement Agreement: Appendix A, the SOW, including attachments 1-3, and Appendix B, Map.

XXVII. ADMINISTRATIVE RECORD

103. EPA will determine the contents of the administrative record file for selection of the remedial action. OCWD shall submit to EPA documents developed during the course of the RI/FS upon which selection of the response action may be based. Upon request of EPA, OCWD shall provide copies of plans, task memoranda for further action, quality assurance memoranda and audits, raw data, field notes, laboratory analytical reports, and other reports. Upon request of EPA, OCWD shall additionally submit any previous studies conducted under state, local, or other federal authorities relating to selection of the response action, and all communications between OCWD and state, local, or other federal authorities concerning selection of the response action. At EPA's discretion, OCWD shall establish a community information repository at or near the Study Area, to house one copy of the administrative record.

XXVIII. EFFECTIVE DATE AND SUBSEQUENT MODIFICATION

104. This Settlement Agreement shall be effective 10 days after the Settlement Agreement is signed by the Regional Administrator or his/her delegate.

105. This Settlement Agreement may be amended by mutual agreement of EPA and OCWD. Amendments shall be in writing and shall be effective when signed by EPA. EPA Project Coordinators do not have the authority to sign amendments to the Settlement Agreement.

106. No informal advice, guidance, suggestion, or comment by the EPA Project Coordinator or other EPA representatives regarding reports, plans, specifications, schedules, or any other writing submitted by OCWD shall relieve OCWD of its obligation to obtain any formal approval required by this Settlement Agreement, or to comply with all requirements of this Settlement Agreement, unless it is formally modified.

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XXIX. NOTICE OF COMPLETION OF WORK

107. When EPA determines that all Work has been fully performed in accordance with this Settlement Agreement, with the exception of any continuing obligations required by this Settlement Agreement, including but not limited to payment of Future Response Costs and record retention, EPA will provide written notice to OCWD. If EPA determines that any Work has not been completed in accordance with this Settlement Agreement, EPA will notify OCWD, provide a list of the deficiencies, and require that OCWD modify the RI/FS Work Plan if appropriate in order to correct such deficiencies, in accordance with Paragraph 38 (Modification of the RI/FS Work Plan). Failure by Respondents to implement the approved modified RI/FS Work Plan shall be a violation of this Settlement Agreement.

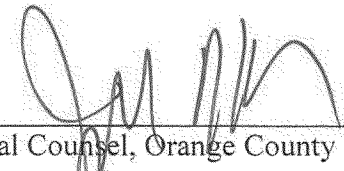
Agreed this 21st day of ^{SEPT} July, 2016.

ORANGE COUNTY WATER DISTRICT

By: 
Cathy Green, President


By: 
Michael R. Markus, P.E., General Manager

APPROVED AS TO FORM:
RUTAN & TUCKER, LLP.


General Counsel, Orange County Water District

It is so AGREED this 4th ^{October} day of ~~September~~, 2016.

BY: _____


John Lyons
Acting Assistant Director
Superfund Division
Region IX
U.S. Environmental Protection Agency

EFFECTIVE DATE: October 14th, 2016

To: Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]
Cc: Traylor, Patrick[traylor.patrick@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]
From: Bodine, Susan
Sent: Wed 11/29/2017 7:26:12 PM
Subject: RE: November 26 - Update on TransCanada "Ludden +17" Spill
[Incident Briefing 11.26.17.docx](#)
[Incident Briefing 11.26.17.docx](#)



So they need to follow their plan:

-----Original Message-----

From: Kelley, Rosemarie
Sent: Tuesday, November 28, 2017 1:34 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>
Subject: RE: November 26 - Update on TransCanada "Ludden +17" Spill

TransCanada's waste plan says it will cover contaminated soils with 10 mil (minimum) plastic. Here is an excerpt from the waste plan:

3.4.1 Temporary Storage

Impacted soil may be temporarily staged on-site within cells engineered with soil storage cells constructed in accordance with the Administrative Rules of South Dakota 74:56:05:21 to control

migration of free-phase liquids and stormwater run-off. Cells will be lined with minimum 10-mil plastic. If soil is saturated with free liquids a lined sump for the collection of free-phase liquids and water should be installed. Stockpiled soils will be appropriately sloped in accordance with the respective soil type. Stockpiled soils will be covered with minimum 10-mil plastic. Leached oil accumulated in sumps will be recovered and managed as recovered oil.

Rosemarie

-----Original Message-----

From: Bodine, Susan

Sent: Tuesday, November 28, 2017 9:15 AM

To: Kelley, Rosemarie <Kelley.Rosemarie@epa.gov>

Cc: Traylor, Patrick <traylor.patrick@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>

Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill

See below.

Ex. 5 - Deliberative Process

-----Original Message-----

From: Ostrander, David

Sent: Monday, November 27, 2017 3:50 PM

To: Bodine, Susan <bodine.susan@epa.gov>; Benevento, Douglas <benevento.douglas@epa.gov>;

Traylor, Patrick <traylor.patrick@epa.gov>; Davis, Patrick <davis.patrick@epa.gov>; Smidinger, Betsy <Smidinger.Betsy@epa.gov>

Cc: Dhieux, Joyel <Dhieux.Joyel@epa.gov>

Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill

Susan,

Transcanada is removing free oil and soils at this time. The soils are being staged for disposal on a lined and bermed pad in accordance with state regulations. They will segregate the more saturated soils (i.e. the area around the rupture) from the less impacted soils (i.e. area lightly sprayed). Soils (and most waste streams) will be sampled and characterized prior to disposal. They are still a few weeks from disposal, thus no soil samples for disposal have been collected at this point. Transcanada intends to test the soils for hazardous waste characteristics and manage them appropriately as solid or hazardous wastes. According to Transcanada, these wastes are not exempt E&P wastes.

Thanks, and let us know if you have any other questions.

> From: Bodine, Susan

> Sent: Monday, November 27, 2017 8:09 AM

> To: Ostrander, David <Ostrander.David@epa.gov>

> Cc: Benevento, Douglas <benevento.douglas@epa.gov>; Traylor, Patrick

> <traylor.patrick@epa.gov>

> Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill
>
> See question below - got an out of office reply from Betsy.
>
>
> From: Bodine, Susan
> Sent: Monday, November 27, 2017 10:03 AM
> To: Smidinger, Betsy
> <Smidinger.Betsy@epa.gov<mailto:Smidinger.Betsy@epa.gov>>
> Cc: Benevento, Douglas
> <benevento.douglas@epa.gov<mailto:benevento.douglas@epa.gov>>; Patrick
> Traylor (traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov>)
> <traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov>>
> Subject: FW: November 26 - Update on TransCanada "Ludden +17" Spill
>
> Betsy,
>

Ex. 5 - Deliberative Process

>
> Thanks,
>
> Susan
>
>
> From: Traylor, Patrick
> Sent: Monday, November 27, 2017 7:54 AM
> To: Jackson, Ryan <jackson.ryan@epa.gov<mailto:jackson.ryan@epa.gov>>;
> Bodine, Susan <bodine.susan@epa.gov<mailto:bodine.susan@epa.gov>>;
> Bowman, Liz <Bowman.Liz@epa.gov<mailto:Bowman.Liz@epa.gov>>; Ferguson,
> Lincoln <ferguson.lincoln@epa.gov<mailto:ferguson.lincoln@epa.gov>>
> Subject: Fwd: November 26 - Update on TransCanada "Ludden +17" Spill
>
> FYSA
> Patrick Traylor
> Deputy Assistant Administrator
> Office of Enforcement and Compliance Assurance U.S. Environmental
> Protection Agency
> (202) 564-5238 (office)
> (202) 809-8796 (cell)
>
> Begin forwarded message:
> From: "Smidinger, Betsy"
> <Smidinger.Betsy@epa.gov<mailto:Smidinger.Betsy@epa.gov>>
> To: "Benevento, Douglas"
> <benevento.douglas@epa.gov<mailto:benevento.douglas@epa.gov>>,
> "Thomas, Deb" <thomas.debrah@epa.gov<mailto:thomas.debrah@epa.gov>>,

> "Davis, Patrick"
> <davis.patrick@epa.gov<mailto:davis.patrick@epa.gov>>, "Traylor,
> Patrick" <traylor.patrick@epa.gov<mailto:traylor.patrick@epa.gov>>
> Cc: "Mutter, Andrew"
> <mutter.andrew@epa.gov<mailto:mutter.andrew@epa.gov>>, "Ostrander,
> David" <Ostrander.David@epa.gov<mailto:Ostrander.David@epa.gov>>,
> "Williams, Laura"
> <williams.laura@epa.gov<mailto:williams.laura@epa.gov>>, "Dhieux,
> Joyel" <Dhieux.Joyel@epa.gov<mailto:Dhieux.Joyel@epa.gov>>, "Griswold,
> Hays" <Griswold.Hays@epa.gov<mailto:Griswold.Hays@epa.gov>>
> Subject: Fwd: November 26 - Update on TransCanada "Ludden +17" Spill
> Hi All - Here is Joyel's update for today.
>
> Sent from my iPhone
>
> Betsy Smidinger
> ARA, Ecosystems Protection and Remediation Region 8, US EPA Denver, CO
> (303) 312-6231 (o)
> (303) 335-7627 (c)
>
> Begin forwarded message:
> From: "Dhieux, Joyel"
> <Dhieux.Joyel@epa.gov<mailto:Dhieux.Joyel@epa.gov>>
> To: "Smidinger, Betsy"
> <Smidinger.Betsy@epa.gov<mailto:Smidinger.Betsy@epa.gov>>, "Ostrander,
> David" <Ostrander.David@epa.gov<mailto:Ostrander.David@epa.gov>>,
> "Williams, Laura"
> <williams.laura@epa.gov<mailto:williams.laura@epa.gov>>, "Griswold,
> Hays" <Griswold.Hays@epa.gov<mailto:Griswold.Hays@epa.gov>>
> Subject: November 26 - Update on TransCanada "Ludden +17" Spill
>
> Hi All,
>
>
>
> I've attached the updated Incident Briefing for the TransCanada "Ludden +17" Spill. The pipeline was
successfully drained last night and will removed tonight. The damaged section of pipeline will be sent to
PHMSA for analysis.
>
>
>
> If you have any questions, please let me know. Tomorrow is my last planned day on-site.
>
>
>
> Joyel
>
>

>
>
>
> Joyel Dhieux
>
> Federal On-Scene Coordinator
>
> U.S. EPA Region 8
>
> Tel: 303-312-6647
>
> Cell: 720-441-9961
> <Incident Briefing 11.26.17.docx>
> <20171126 _ICS 209 Incident Status Summary.pdf>

**Incident Briefing
U.S. Environmental Protection Agency Region 8
Emergency Response Unit
November 26, 2017**

**Site: TransCanada “Ludden +17” Oil Spill
Amherst, South Dakota**

Background

On Thursday, November 16, 2017, TransCanada reported a release of approximately 5,000 bbls (210,000 gallons) of crude oil from a 30 inch pipeline near Amherst, South Dakota. The pipeline was constructed in 2008-2009 and put in operation in 2010. The line is approximately four feet deep (min depth). The release occurred in a rural and very remote area of eastern South Dakota. The release is contained in a farmer’s field that has been placed into conservation.

Based on observations from the release, it would appear to have been a sudden rupture that caused a release of pressure from the pipeline and a spray over approximately 0.5 acre of farm field before equalizing and pooling above the break.

Response Objectives

Incident Command has established four priorities for the response: life safety, incident stabilization, protection of the environment/wildlife, and stakeholder communication.

Operational Update

TransCanada drained oil from the isolated section of pipeline overnight. Once the oil was drained from the pipeline and the pool was drawn down, crews were able to get a good visual of the rupture. The rupture is a four to five foot linear split in the pipeline. The ruptured section was removed from the pipeline and will be sent for analysis by PHMSA.

The pipeline will be repaired over the next few days. The tentative re-start date for the pipeline is Wednesday, November 29.

Crews continued to collect additional soil samples with a geo-probe. The goal of the sampling is to establish the outer perimeter and generally characterize the depth and extent of contamination. The samples are collected to a depth of ten feet. Contamination varies from the surface of the soil to a several feet depending on proximity to the rupture. There appears to be a perched water table at approximately eight feet.

TransCanada continued removal of contaminated vegetation and soils in the area around the rupture. Crews built a lined pad to stockpile the contaminated soils which will be segregated based on level of contamination. The soils will be stockpiled and stored per South Dakota guidelines and sampled prior to disposal.

Oil Recovered: 44,730 gallons (The actual amount of oil released is less than the 5,000 bbls initially reported.)

Planned Actions

TransCanada will complete pipeline repairs. Crews will continue assessment and removal of

contaminated soils.

Organization

TransCanada is in Incident Command. Three PHMSA Inspectors are on-site to oversee pipeline work. One EPA OSC is on-site to observe oil spill response efforts. A SD representative from the State or Local Emergency Management Office attends the daily Incident Command and General Staff Meeting.

Resources

TransCanada has 163 personnel on-site for the response. Operations are continuing 24 hours/7 days a week.

Photos



November 26, 2017. Aerial photo of the incident command post and “man camp” in a corn field south of Britton, SD.



November 26, 2017. Aerial photo of the pipeline. Crews are cutting out the ruptured section of pipeline. The pipeline will be sent to PHMSA for investigation and analysis. Timber pads were used to move heavy equipment across the field to minimize damage. This area of SD has black soils; the extent of contamination cannot be determined by coloration.



November 26, 2017. A closer view of the pipeline work. PHMSA has three inspectors on-site to oversee the removal of the ruptured pipeline section. The rupture is covered with a white wrap in this photo.



November 26, 2017. Piles of dirt staged on-site for disposal. The pipeline is marked with wooden posts.

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To: Ford, Hayley[ford.hayley@epa.gov]; Wagner, Kenneth[wagner.kenneth@epa.gov]
Cc: Konkus, John[konkus.john@epa.gov]
From: Bodine, Susan
Sent: Fri 10/20/2017 7:33:42 PM
Subject: RE: Pictures w/Administrator, Tuesday, October 24th

Sounds good.

From: Ford, Hayley
Sent: Friday, October 20, 2017 2:16 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Wagner, Kenneth <wagner.kenneth@epa.gov>
Cc: Konkus, John <konkus.john@epa.gov>
Subject: FW: Pictures w/Administrator, Tuesday, October 24th

Hi all,

Just wanted to give you a quick heads up that the Home Builders group is requesting a picture with the Administrator after he speaks at the meeting next Tuesday. Planning that he'll be there from 11-11:30, I'll have the photographer come a few minutes before 11:30, they can do a group photo, he'll leave, then you'll continue until the meeting ends at 12? Just wanted to make sure you didn't have concerns with this but can't imagine you do.

John – As long as Susan and Ken are good with this, can you ask Eric? This event will be in the Alm Room.

Thanks!

Hayley Ford

Deputy White House Liaison

Office of the Administrator

Environmental Protection Agency

Room: 3309C William Jefferson Clinton North

ford.hayley@epa.gov

Phone: 202-564-2022

Cell: 202-306-1296

From: Bailey, Ethel

Sent: Friday, October 20, 2017 2:11 PM

To: Ford, Hayley <ford.hayley@epa.gov>

Cc: Shiffman, Cari <Shiffman.Cari@epa.gov>

Subject: Pictures w/Administrator, Tuesday, October 24th

Hi Hayley,

Per our conversation. The Home Builders would like to request pictures with the Administrator on Tuesday, October 24th. Can you please arrange to have the Administrator's Photographer available.

Thank you,

Ethel

Ethel Bailey-Morton

Program Specialist

Environmental Protection Agency

Office of Enforcement and Compliance Assurance

1200 Pennsylvania Ave., NW

Washington, DC 20460

(202) 564-5149 (direct)

(202) 564-2440 (main)

bailey.ethel@epa.gov

To: Bowman, Liz[Bowman.Liz@epa.gov]; Forsgren, Lee[Forsgren.Lee@epa.gov]; Jackson, Ryan[jackson.ryan@epa.gov]
Cc: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]; Albert Kelly (kelly.albert@epa.gov)[kelly.albert@epa.gov]
From: Bodine, Susan
Sent: Fri 10/20/2017 7:31:15 PM
Subject: FW: EOC Situation Unit
Irma Management Report 10-20 Final.pdf

Excerpt from attached report

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

EPA teams have assessed the Dorado Groundwater Contamination NPL site in Caguas where reports indicated residents might be extracting water from the wells on the sites.

*o **Site Security:** On October 16th, the Municipality of Dorado Mayor provided security personnel at wells 2, 4, 5, and 6 to mitigate access by the local community from getting water from the wells and to encourage the citizens to use the Oasis established by Puerto Rico Aqueducts Sewer Authority (PRASA) as well as additional water sources provided by FEMA, DOD, FBI, and EPA at the well sites. USACE is providing two water trucks for distribution of potable water to the community. FBI dropped off more pallets of bottled water at well 4.*

*o **Sample Results:** Analytical results for biologicals will be available on October 17th; preliminary results for chemical parameters were made available on October 20th (validated results will be available later on October 20th). Preliminary results confirm that no water is being produced or drawn from wells 2, 4, and 6. The spigots near these wells are instead receiving water through the PRASA distribution system, and preliminary results show that PRASA's Santa Rosa well contains PCE in trace quantities, but well within Safe Drinking Water Act limits. Additional samples will be taken from these wells and spigots for further analysis.*

From: EOC Situation Unit

Sent: Friday, October 20, 2017 3:23 PM

To: Mosser, Jennifer <Mosser.Jennifer@epa.gov>; PCC Harvey <PCC_Harvey@epa.gov>; FEMA-NRCC-ohul <FEMA-NRCC-ohul@fema.dhs.gov>; FEMA-NRCC-ohs <FEMA-NRCC-ohs@fema.dhs.gov>; OLEM OEM ALL EOC Positions <OLEM_OEM_ALL_EOC_Positions@epa.gov>; OLEM Management Report <OLEM-Management-Report@epa.gov>

Subject: EOC Situation Unit

Good afternoon,

Please find attached the Irma/Maria Management Report for today, October 20th.

Note: To avoid text that may "run-off" the page, select "Landscape" layout prior to printing report.

Thank you,

Situation Unit

EOC_Situation_Unit@epa.gov

202-250-8918



For Internal Use Only/For Official Use Only

October 20, 2017 1530 EDT

HURRICANES IRMA AND MARIA MANAGEMENT REPORT

Information contained in this report reflects HQ and regional reporting from the most recently completed operational period as well as other reports provided by HQ, regional and interagency sources.

National Incident Management Objectives

Objective 1: Ensure that health and safety of the EPA responders is considered at all times.

Objective 2: Establish an incident management structure and processes employing the Incident Command System to enable effective overall management of the event with deployment of resources (staff and equipment) in a rapid,

aggressive and well-coordinated manner.

Objective 3: Ensure prompt Review and Processing of Fuel Waiver requests.

Objective 4: Prepare for and provide Rapid Assessment of Industrial facilities as requested by the State or under EPA's statutory program responsibilities for CERCLA Superfund, RMP and FRP facilities. Working with our state partners, contact industrial sources within the impacted area to determine their operational status and determine what support can be provided with the monitoring of the start-up of industrial sources.

Objective 5: Prepare for and provide Rapid Assessment & Technical Assistance Drinking Water & Wastewater facilities as requested by the State or local government. EPA will support our state partners in contacting drinking water and wastewater systems.

Objective 6: Prepare a Sustained Response Plan that outlines the resource and equipment needs for a long duration response.

Objective 7: Activate the Agency's Crisis Communication Plan to ensure effective and efficient coordination of all incident communications.

Objective 8: Encourage a collaborative federalism approach, where national, state and local governments interact cooperatively and collectively to solve common problems.

Objective 9: Begin Agency internal and external coordination under the National Disaster Recovery Framework regarding Recovery Support Functions in which EPA is likely to be involved.

Executive Summary

The new schedule for management reports will be Tuesday and Friday, starting the week of October 16th.

Region 2

- Driving conditions in Puerto Rico are still dangerous. Heavy rains during much of October to

date have exacerbated flooding, landslides, road closures, etc. Flash flood warning continues for the area near the Guajataca Dam.

- EPA Region 2 Regional Administrator Peter Lopez arrived in PR on October 16th. He travelled to USVI on October 19th and will leave from PR on October 20th.

- The incidence of reports of diseases is increasing, including gastro-intestinal problems and conjunctivitis, leptospirosis and other vector-borne diseases.

- Residents continue to use surface waters (rivers, streams, lakes, coastal waters) for washing, potentially exposing them to harmful pathogens from the sewage discharges.

- EPA teams have assessed the Dorado Groundwater Contamination NPL site in Caguas where reports indicated residents might be extracting water from the wells on the sites.

- o **Site Security:** On October 16th, the Municipality of Dorado Mayor provided security personnel at wells 2, 4, 5, and 6 to mitigate access by the local community from getting water from the wells and to encourage the citizens to use the Oasis established by Puerto Rico Aqueducts Sewer Authority (PRASA) as well as additional water sources provided by FEMA, DOD, FBI, and EPA at the well sites. USACE is providing two water trucks for distribution of potable water to the community. FBI dropped off more pallets of bottled water at well 4.

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- EPA teams continue to assess Superfund sites in PR including those where reports indicated residents might be extracting water from the wells on the sites. EPA public affairs and CIC staff are addressing media and community outreach actions to warn the public about accessing these sites.

- Effective immediately, uniform curfew hours of 8 p.m. to 5 a.m. will be in place across all three Virgin Islands.

- EPA contractors have developed plans to mobilize a barge with all the necessary equipment to support the debris MAs, using a FEMA transport for PR and USVI. For PR, FEMA estimates shipping of the equipment on October 19th with estimated arrival in PR on October 25th. For USVI, FEMA estimates shipment, via barge from Fort Lauderdale, Florida, to arrive in St. Thomas and St. Croix by the week of October 16th. There have been difficulties with scheduling barge space.

- As of October 20th, 28.5% of the PRASA-served population is without access to drinking water (DW) service; comparable data for USVI is not available. PR and USVI have island-wide boil water orders.

- As of October 20th, 19.6% of the sewage treatment plants in PR remain inoperable due to

damage to the trunk lines that bring the sewage to the plants, or damage to or lack of electric power at pump stations. In the USVI, damage to sewage systems was less severe, but plants do not have primary power, and lack sufficient generators or generator fuel.

Region 4

- As of October 17th, Landfill Technical Specialists assessed 107 Disaster Debris Management Sites (DDMS) in the Florida Keys.
- As of October 17th, the EPA Container Recovery Group has recovered 362 items, including drums, oil containers, and propane tanks. These items are being stored for categorization and repackaging prior to recycling or disposal at the container staging area at the Florida Keys Marathon International Airport.
- As of October 17th, EPA and USCG field teams recovered 975 vessels of the 2,427 identified vessels—1,452 vessels remain.

Regional Mission Assignments and Funding

EPA Region	Mission Assignment Number	Funding Amount	Description of Assignment
Region 2	4339DR-PR-EPA-04	\$6,000,000	To deploy personnel to coordinate and execute all necessary assessments, evaluations, sampling and analysis services/support and other necessary actions associated with ensuring the safety and quality of D and WW systems, in support of PRASA, Puerto Rico Department of Health (PRDH).
	4339DR-PR-EPA-03*	\$10,000,000	Removal, cleanup and disposal of oil and hazmat; collect and dispose of HHW; monitor immediate threats to public H&S and the environment in PR.
	VI-17090102-EPA-01	(\$10,000)	Expired
	4335DR-VI-EPA-01	(\$100,000)	Expired
	4335DR-VI-EPA-02	\$1,008,000	To perform assessment of oil and hazardous material releases, contaminated debris and other environmental events in USVI.
	4335DR-VI-EPA-04	\$10,000,000	Conduct oil and hazardous materials field operations including cleanup and disposal of hazardous materials and oil, and response to orphaned containers in order to mitigate actual and potential threats to public health and safety.
	4335DR-VI-EPA-06	\$2,000,000	EPA provides support preparing for site-specific platforms for situational awareness; environmental damage management; operational deployment plans;

			documentation of assessment activities and results resource and financial tracking, accountability and c documentation.
	PR-17090102-EPA-01	(\$20,000)	Expired
	3384EM-PR-EPA-01	(\$75,000)	Expired
	4336DR-PR-EPA-01	(\$125,000)	Expired
	4336DR-PR-EPA-02	\$1,008,000	To perform assessment and reconnaissance of oil and hazardous materials release, contaminated debris and storm impacted infrastructure which may pose a threat to federal responders, as well as, environmental harm in PR.
	4339DR-PR-EPA-01	\$303,000	EPA to FEMA NRCC or PR JFO/EOC
	4340DR-VI-EPA-01	\$130,000	EPA to FEMA NRCC or USVI JFO/EOC
	4340DR-VI-EPA-04	\$2,100,000	EPA to RRCC, JFO, EPA REOC, State EOC and other coordination venues to support FEMA response operations in the USVI.
Region 4	4337DR-FL-EPA-05	\$90,000	Activation for appropriate EPA personnel to perform the functions of ESF-10 w/ RRCC, IOF, JFO, FEMA Incident Management Assistance Team (IMAT), Preliminary Damage Assessment (PDA) Team, or other teams and locations, at the direction and coordination of FEMA.
	4337DR-FL-EPA-03	(\$525,000)	Expired
	4337DR-FL-EPA-04	(\$9,000,000)	Expired
	4337DR-FL-EPA-07	(\$675,000)	Expired
	4337DR-FL-EPA-08	\$10,000,000	Provide oil and hazardous material field response in support of FEMA response operations providing specialized expertise, conducting damage assessment of oil/hazmat waste impact evaluating hazards; and/or response, removal, or disposal of actual and potential oil discharges, and releases of hazardous substances, pollutants and contaminants and remove pollutants from vessels in or upon navigable waters and adjoining shorelines through November 30 th with a state cost share of 10%.
	4337DR-FL-EPA-09	\$675,000	Provide funding for EPA Landfill Specialty Team through November 30 th with a state cost share of 10%
Total Active MAs	\$43,314,000		

**A signed MA task order documenting the additional task requested by the PR Solid Waste Authority was received.*

Total Number of Regional Personnel Involved in Response (as reported by R2 on October 20th and by R4 on October 17th)

Type	R2 Personnel	R4 Personnel	Total Regional Personnel
EPA*	164	27	191
Contractors	106	37	143
Totals	270	64	334

*These numbers include CEPD personnel.

Force Laydown for USVI* and PR (as reported by R2 on October 20th and by R4 on October 17th)

- Region 2 has entered resource orders into the WebEOC Personnel Resource Log.

Type	Personnel USVI	Personnel PR	Total Deployment
EPA*	19	71	90
Contractors	35	38	73
Totals	54	109	163

*These numbers include CEPD personnel.

Region 2 Significant Activities

- Disease outbreaks have been reported in numerous municipalities (diarrhea, conjunctivitis, vector-borne diseases etc.). As of October 20th, PR Department of Health (PRDH) has confirmed 74 potential cases of leptospirosis and one death due to the disease.
- Municipalities are concerned with the public health and environmental impacts of the increasing number of clandestine dumps.
- Operations for disposal of medical waste anticipated to begin on October 23rd by a contractor.
- U.S. Customs is requiring EPA's EERS contractor to pay a tax on supplies that have arrived in STT/STJ and STX prior to release, despite the fact that there is a U.S. Customs exemption for supplies for entities supporting FEMA response effort. The FEMA NRCC is assisting with resolving this issue.
- The Region 2 Regional Emergency Operation Center (REOC) and the Puerto Rico Incident Command are considering expanding the ICS structure.

Superfund and Oil Sites

- There are 34 Superfund and oil sites (30 in PR and 4 in USVI). The Regional Emergency Operations Center (REOC) is contacting the RPMs for each site and working with Region 2's Emergency

and Remedial Response Division to provide updates.

SUPERFUND SITES (NPL, Removal, and Oil)						
Site	Type	Phase 1	Phase 2	Phase 3	All Phases Completed	
		Post-Storm Assessment	Site Inspection Needed	Inspected	Additional Response Action	
Atlantic Fleet Weapons Training Area (Vieques)	NPL					
Barceloneta Landfill	NPL					
Arecibo Battery Recycling Co.	Removal & NPL*	09/22	No	-	No	09/22
Cabo Rojo Groundwater Contamination	NPL					
Cidra Groundwater Contamination	NPL	10/05	No	-	No	10/05
Corozal Well	Removal & NPL*	09/24	No	-	No	09/24
Culebra Dorado Groundwater Contamination	Other NPL	10/12	Yes			
Fibers Public Supply Wells	NPL	10/05	Yes			
Fort Buchanan	Other	10/06	No	-	No	10/06
Frontera Creek	NPL	10/05	No	-	No	10/05
GE Wiring Devices	NPL	10/06	Yes			
Guayanilla Bay Oil Spill	Oil	10/06	Yes			
Hormigas Groundwater Plume	NPL	10/06	Yes			
Jansen, Inc.	Other	10/06	No	-	No	10/06

Juncos Landfill	NPL	09/30	Yes	10/05	No	10/05
Maunabo Urbano Public Wells	NPL	10/12	No	-	No	10/12
Naval Security Group Activity	Other	10/06	No	-	No	10/06
Papelera Puertorriqueña, Inc.	NPL	09/29	No	-	No	09/29
Pesticide Warehouse 1	NPL	10/04	Yes			
Pesticide Warehouse 3	NPL	10/04	Yes			
Prepa Palo Seco General Depot	Other	10/12	No	-	-	10/12
Puerto Rico Olefins	Other	10/11	Yes			
Puma Caribe (CAPECO)	Oil Response	09/21	No	-	No	09/21
RCA Del Caribe	NPL					
San Germán Groundwater Contamination	NPL	10/12	Yes			
Scorpio Recycling Inc.	NPL	10/05	Yes			
U.S. Naval Station	Other	10/06	No	-	No	10/06
Upjohn Facility	NPL	09/30	Yes			
V&M	NPL	10/12	No	-	-	10/12
Albaladejo Vega Alta Public Supply Wells	NPL	09/30	Yes			
Vega Baja Solid Waste Disposal	NPL	10/04	No	-	No	10/04
Cruz Bay Oil Tank	Oil	10/09	Yes	10/11	Yes	
Island Chemical	NPL	10/05	No	-	No	10/05

Corp/Virgin Islands						
Chemical Corp						
Krum Bay Oil Spill at WAPA Facility	Oil	10/01	No	-	No	10/01
Tutu Wellfield	NPL	10/03	Yes			

Regulated Facilities in PR and USVI

- The Regulated Facility Team (RFT) continues to provide effective compliance assistance to Risk Management Plan (RMP), Facility Response Plans (FRP), and Spill Prevention, Control and Countermeasures (SPCC) regulated facilities. Several significant RMP, FRP, and SPCC companies in PR and the USVI, such as Puma, PRASA, Total, and Water and Power Authority (WAPA) have reported no damage to oil, chemical, or flammable operations.
- In the USVI, Virgin Island Asphalt Products facility was found to have sustained significant damage. Damage to some oil tanks was observed with discharges of product to secondary containment. The facility owner is addressing the issues with EPA oversight.

Facility Type	Total Field Assessments Completed to date (As of October 18 th)	Total # of Facilities to be Assessed
Puerto Rico		
RMP	81	56
FRP	29	23
SPCC (non-FRP)	123	0*
Total	233	79
USVI		
RMP	1	1
FRP	6	6
SPCC (non-FRP)	52	0*
Total	59	7

**Total number of SPCC facilities assessed is identified by impacted geographic areas.*

Drinking Water/Wastewater (DW/WW) Assessments in PR

- PRASA facility assessments are ongoing with EPA staff participating in PRASA facility assessments.

- o Out of PRASA's 51 facilities, 10 wastewater treatment plants (WWTPs) are non-operational, 6 of which are upstream of a drinking water intake.
- o Utuado (2.0 MGD) – Main trunk sewer collapsed, no sewage reaching the plant.
- o Ciales (1.5 MGD) – Main trunk sewer collapsed, no sewage reaching the plant. A contractor is on-site.
- o Corozal (1.25 MGD) – Main trunk sewer collapsed, no sewage reaching the plant. PRASA already has a contractor on site. It may take two weeks for repairs.
- o San Sebastián Old (0.4 MGD) – Influent pump station is out of service but all flow is being diverted to the San Sebastián New WWTP for treatment.
- o Maricao (0.25 MGD) – Main trunk sewer collapsed, no sewage reaching the plant.
- o 43 of the 115 drinking water treatment plants (WTPs) operated by PRASA are out of service.
- o 72 WTPs are working on alternate power or primary power.
- o 28.5% of the population are without drinking water services due to the lack of primary power, lack of diesel, operational problems, or clogged intakes.
- o Assessments are complete at around 80% of PRASA's 800 sanitary pump stations. As of October 20th, at least 233 sanitary pump stations are overflowing sewage due to lack of power, malfunctioning power generator or pumping problems. Of these 233 pump stations, 92 are located upstream of a water supply intake.
- o PR's biggest concern is the largest pump station, Torrecillas Pump Station, which suffered major damages due to flooding. PREPA was energizing the area to get the pump station back in service and PRASA is trying to obtain a generator from FEMA.

Drinking Water Plants Out of Service in PR (as of October 19 th)		
Name	Volume Processed (MGD)	Status
Caguas Sur	4.75	Due to recent rain event, raw water pipeline broken
Gurabo	4.0	Due to recent rain event, raw water pipeline broken
Nueva		
Jagual	0.6	Due to recent rain event, raw water pipeline was broken
Barrancas	0.55	Raw water intake out of service
Barranquitas	0.7	Due to recent rain events, raw water intake clogged
Urbano		

Las Bocas	1.0	Alternate power unit out of service
Cayey	3.5	Raw water intake out of service
Urbano		
Culebras	0.33	Alternate power unit out of service
Alto		
Comerio	3.0	Due to recent rain events, raw water intake was clogged
Río Hondo		
Humacao	6.0	Due to recent rain events, raw water intake was clogged
Las Piedras		
Ceiba Sur	3.6	Due to recent rain events, raw water intake was clogged
Maizales	0.5	Alternate power unit out of service
El Duque	1.0	Lack of diesel
Guayabota	0.3	Alternate power unit of raw water intake out of service
Guzmán	1.0	Raw water intake pipe broken
Arriba		
Arecibo	1.5	Alternate power unit out of service
Urbano		
Esperanza	0.5	Alternate power unit out of service
Río Arriba	0.25	Raw water intake collapsed
Quebrada	2.0	Raw water pump station out of service
Canalizo	0.14	Alternate power unit out of service
Mameyes	0.43	Alternate power unit out of service
Arriba		
Lares Nueva	4.0	Alternate power unit out of service
Indiera Alta	0.5	Raw water pump station flooded
Mameyes	0.22	Raw water pump station out of service.
Abajo		
Santa Isabel	1.0	Raw water pump station. Alternate power unit out of service.
Utua	3.5	Raw water pump station. Alternate power unit out of service.
Urbano		
Frontón	0.25	Alternate power unit out of service
Jaguas Pesas	0.25	Raw water intake alternate power unit out of service.
Morovis	0.5	Alternate power unit out of service
Norte		
Morovis Sur	4.0	Alternate power unit out of service
Sana Muerto	0.5	Alternate power unit out of service
Almirante	1.0	Raw water pump station flooded.
Sur		
Aguadilla	18	Raw water pump station out of service, a contractor is on site
Guajataca	2.0	Raw Water Supply clogged, being cleaned by DOD. This should be resolved next week.
Isabela	5.0	Operational problems at the facility

Sabana Grande	0.75	Raw water intake clogged.
Coamo Urbano	1.05	Collapsed raw water intake
Matrullas	0.25	Alternate power unit out of service
Orocovois Urbano	3.3	Raw water pipeline collapsed due to recent rain events
Aceitunas	2.5	High turbidity
Lizas	1.0	Alternate power unit out of service
Real Anón	0.6	Raw water intake pipeline broken
Ranchera	0.22	Water distribution pump station is out of service

Wastewater Treatment Plants Out of Service in PR (as of October 19 th)		
Name	Volume Processed (MGD)	Status
Utua	2.0	Main trunk sewer collapsed, no sewage reaching the plant.
Ciales	1.5	Main trunk sewer collapsed, no sewage reaching the plant. A contractor is on-site.
Corozal	1.25	Main trunk sewer collapsed, no sewage reaching the plant. PRASA already has a contractor on site. It may take two weeks for repairs.
San Sebastián	0.4	Influent pump station is out of service, but all flow is being diverted to the San Sebastián New WWTP for treatment.
Maricao	0.25	Main trunk sewer collapsed, no sewage reaching the plant.
Dorado	4.05	Alternate power unit out of service
Toa Alta	0.8	Raw water intake out of service
Santa Isabel	5.5	Alternate power unit out of service but is being repaired
Comerio	1.0	Main trunk sewer collapsed, is back in service. The collapsed trunk sewer is being repaired but PRASA is hauling sewage to the plant from a pump station.

Drinking Water and Wastewater Assessments on PR (as of October 18 th)		
Assessment Types	Daily Assessments	Total Assessments
On-Site DW Assessments	24	121
On-Site WW Assessments	18	166

• Non-PRASA drinking water facilities serve approximately 4% of the PR populations

(PRASA systems service the other 96%). EPA is working with PRDOH, DOD, HHS, and FEMA, in assessing the non-PRASA drinking water systems throughout PR. Such systems provide drinking water from wells and surface water to isolated communities located in rural areas in PR.

Drinking Water/Wastewater (DW/WW) Assessments in USVI

- A boil water advisory remains in place across the USVI.
- Staff from the Department of Health (DOH) accompanied one EPA sampling team that delivered analytical results to locations that supply potable water to the public that tested positive for total coliform. As a result, DOH placed water restrictions on one hotel, two private schools, and one commercial property.
- EPA continues to coordinate drinking water sampling with DPNR. DPNR continues to notify the proprietors of the affected systems to ensure proper disinfection measures are taken.

Drinking Water and Wastewater Assessments on USVI (as of October 18 th)		
Assessment Types	Daily Assessments	Total Assessments
On-Site DW Assessments	27	585
On-Site WW Assessments	0	18

PR and USVI Air Monitoring Activities

- The PR EQB plans to conduct an assessment on the conditions of the ambient air monitoring network. The network went offline prior to Hurricane Maria's landfall. There is no update or information on the status or damages. EQB will staff an assessment team once their employees are available.
- In St. Thomas and St. Croix, on October 17th, EPA was requested by FEMA and DPNR to assess air quality in schools. A final report of assessment activities of air monitoring in schools was sent to Virgin Islands Territorial Emergency Management Agency (VITEMA), VI Department of Education, and members of the St. Croix Schools Task Force. Although recommendations were made to test for potential asbestos containing material and to take standard precautions to protect workers from exposure to mold and dust, no air monitoring was deemed as necessary.
- USACE has requested EPA assistance with air monitoring during the USACE's air curtain burning of vegetative debris activities.

PR Debris Recovery

EPA is adding a Hazardous Debris Assessment Team to each of the three field branches to coordinate with CEPD and USACE. These teams have a list of the landfills and other locations identified by CEPD that are being considered for temporary hazardous debris staging pads.

- The Hazardous Debris Assessment Teams were able to establish a new HW staging/collection area at the Mausoleum Debris Pile in Toa Baja.
- Municipalities report a large amount of unauthorized, clandestine dumps in their communities. They are concerned with public health and environmental impacts.

USVI Debris Recovery

- EPA received final selection for HHW and white goods collection sites in STX and is waiting for DPNR to identify a staging location on STT.
- USVI is allowing the burning of vegetative debris. USACE intends to segregate construction and demolition (C&D) debris prior to burn operations and VIWMA will handle the C&D debris.
- As of October 11th, EPA is planning for the transportation and disposal of stockpiled medical waste at the hospitals on St. Croix (50,000 lbs.) and St. Thomas (80,000 lbs.). The contract for repackaging, transportation, and disposal of medical waste is anticipated to be awarded by October 20th, which would allow for work to start by October 25th on St. Thomas followed by St. Croix.

Orphan Container, Pollution Response, and Vessels in PR and USVI

- USCG has tentatively identified 266 sunken vessels in PR as initial targets for assessment. Data collection and reporting procedures are under development.
- In the USVI, EPA contractors continued inputting the vessel assessment info into Response Manager database. 71 targeted vessels have been identified to date.

EPA Headquarters Significant Activities

- The HQ EOC is activated to Level 1 in support of EPA Regions 2 and 4 responses to Hurricanes Irma and Maria. For the Hurricanes Irma and Maria responses, the HQ EOC is coordinating on several levels with EPA Regions 2 and 4, and other Federal agencies. The HQ EOC deployed personnel to the FEMA NRCC's ESF-10 desk. EPA Senior Management on the Policy Coordination Committee (PCC) developed and issued senior management objectives that form the basis of field strategy and tactics in response to Maria and Irma.

Other EPA Activities

OECA Civil/CID

- [REDACTED] EPA has received *force majeure* claims from:
 - o PREPA regarding its compliance with certain requirements of a 1999 Clean Air Act consent decree;
 - o PRASA, the P.R. Department of Transportation & Public Works and the P.R. Highway and Transportation Authority relating to those entities' compliance with existing Clean Water Act consent decrees with EPA;
 - o Puma Energy Caribe, LLC concerning its compliance with a RCRA consent decree.
 - o The U.S. Navy concerning compliance with the Federal Facilities Agreement regarding the Atlantic Fleet Weapons Training Area NPL site.

Ex. 5 - Deliberative Process

Communications

- [REDACTED] On October 17th, EPA Region 2 Administrator met with Governor Ricardo Rosselló.
- [REDACTED] Region 2 public affairs and CIC staff are addressing media and community outreach actions to warn the public about improperly accessing Superfund sites.
 - o The EPA CIC for the Dorado Groundwater Contamination site spoke with local residents and they were aware that wells are associated with contamination at a Superfund Site but indicated a need for water.
- [REDACTED] A video, entitled "Community Water Assessment Mission," is now posted at <https://www.dvidshub.net/video/557519/community-water-assessment-mission>.
- [REDACTED] The REOC and Field PIOs are working with reporters from the *Associated Press* and *El Nuevo Día* to do stories on EPA's work on wastewater and drinking water facility assessments, respectively.
- [REDACTED] Bilingual Community Involvement Coordinators (CICs) are assisting the assessment teams in PR and USVI and will be supporting the Region 2 RA/DRA visit to the USVI on October 19th.
- [REDACTED] Region 2, Region 4, and HQ activities related to Irma and Maria response efforts are available at: <http://www.epa.gov/hurricane-irma> and www.epa.gov/hurricane-maria, respectively.



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October 20, 2017 1530 EDT

HURRICANES IRMA AND MARIA MANAGEMENT REPORT

Information contained in this report reflects HQ and regional reporting from the most recently completed operational period as well as other reports provided by HQ, regional and interagency sources.

National Incident Management Objectives

Objective 1: Ensure that health and safety of the EPA responders is considered at all times.

Objective 2: Establish an incident management structure and processes employing the Incident Command System to enable effective overall management of the event with deployment of resources (staff and equipment) in a rapid, aggressive and well-coordinated manner.

Objective 3: Ensure prompt Review and Processing of Fuel Waiver requests.

Objective 4: Prepare for and provide Rapid Assessment of Industrial facilities as requested by the State or under EPA's statutory program responsibilities for CERCLA Superfund, RMP and FRP facilities. Working with our state partners, contact industrial sources within the impacted area to determine their operational status and determine what support can be provided with the monitoring of the start-up of industrial sources.

Objective 5: Prepare for and provide Rapid Assessment & Technical Assistance Drinking Water & Wastewater facilities as requested by the State or local government. EPA will support our state partners in contacting drinking water and wastewater systems.

Objective 6: Prepare a Sustained Response Plan that outlines the resource and equipment needs for a long duration response.

Objective 7: Activate the Agency's Crisis Communication Plan to ensure effective and efficient coordination of all incident communications.

Objective 8: Encourage a collaborative federalism approach, where national, state and local governments interact cooperatively and collectively to solve common problems.

Objective 9: Begin Agency internal and external coordination under the National Disaster Recovery Framework regarding Recovery Support Functions in which EPA is likely to be involved.

Executive Summary

The new schedule for management reports will be Tuesday and Friday, starting the week of October 16th.

Region 2

- Driving conditions in Puerto Rico are still dangerous. Heavy rains during much of October to date have exacerbated flooding, landslides, road closures, etc. Flash flood warning continues for the area near the Guajataca Dam.
- EPA Region 2 Regional Administrator Peter Lopez arrived in PR on October 16th. He travelled to USVI on October 19th and will leave from PR on October 20th.
- The incidence of reports of diseases is increasing, including gastro-intestinal problems and conjunctivitis, leptospirosis and other vector-borne diseases.
- Residents continue to use surface waters (rivers, streams, lakes, coastal waters) for washing, potentially exposing them to harmful pathogens from the sewage discharges.
- EPA teams have assessed the Dorado Groundwater Contamination NPL site in Caguas where reports indicated residents might be extracting water from the wells on the sites.
 - **Site Security:** On October 16th, the Municipality of Dorado Mayor provided security personnel at wells 2, 4, 5, and 6 to mitigate access by the local community from getting water from the wells and to encourage the citizens to use the Oasis established by Puerto Rico Aqueducts Sewer Authority (PRASA) as well as additional water sources provided by FEMA, DOD, FBI, and EPA at the well sites. USACE is providing two water trucks for distribution of potable water to the community. FBI dropped off more pallets of bottled water at well 4.
 - **Sample Results:** Analytical results for biologicals will be available on October 17th; preliminary results for chemical parameters were made available on October 20th (validated results will be available later on October 20th). Preliminary results confirm that no water is being produced or drawn from wells 2, 4, and 6. The spigots near these wells are instead receiving water through the PRASA distribution system, and preliminary results show that PRASA's Santa Rosa well contains PCE in trace quantities, but well within Safe Drinking Water Act limits. Additional samples will be taken from these wells and spigots for further analysis.
- EPA teams continue to assess Superfund sites in PR including those where reports indicated residents might be extracting water from the wells on the sites. EPA public affairs and CIC staff are addressing media and community outreach actions to warn the public about accessing these sites.
- Effective immediately, uniform curfew hours of 8 p.m. to 5 a.m. will be in place across all three Virgin Islands.
- EPA contractors have developed plans to mobilize a barge with all the necessary equipment to support the debris MAs, using a FEMA transport for PR and USVI. For PR, FEMA estimates shipping of the equipment on October 19th with estimated arrival in PR on October 25th. For USVI, FEMA estimates shipment, via barge from Fort Lauderdale, Florida, to arrive in St. Thomas and St. Croix by the week of October 16th. There have been difficulties with scheduling barge space.
- As of October 20th, 28.5% of the PRASA-served population is without access to drinking water (DW) service; comparable data for USVI is not available. PR and USVI have island-wide boil water orders.
- As of October 20th, 19.6% of the sewage treatment plants in PR remain inoperable due to damage to the trunk lines that bring the sewage to the plants, or damage to or lack of electric power at pump stations. In the USVI, damage to sewage systems was less severe, but plants do not have primary power, and lack sufficient generators or generator fuel.

Region 4

- As of October 17th, Landfill Technical Specialists assessed 107 Disaster Debris Management Sites (DDMS) in the Florida Keys.
- As of October 17th, the EPA Container Recovery Group has recovered 362 items, including drums, oil containers, and propane tanks. These items are being stored for categorization and repackaging prior to recycling or disposal at the container staging area at the Florida Keys Marathon International Airport.

□ As of October 17th, EPA and USCG field teams recovered 975 vessels of the 2,427 identified vessels—1,452 vessels remain.

Regional Mission Assignments and Funding

EPA Region	Mission Assignment Number	Funding Amount	Description of Assignment
Region 2	4339DR-PR-EPA-04	\$6,000,000	To deploy personnel to coordinate and execute all necessary assessments, evaluations, sampling and analysis services/support and other necessary actions associated with ensuring the safety and quality of DW and WW systems, in support of PRASA, Puerto Rico Department of Health (PRDH).
	4339DR-PR-EPA-03*	\$10,000,000	Removal, cleanup and disposal of oil and hazmat; collect and dispose of HHW; monitor immediate threats to public H&S and the environment in PR.
	VI-17090102-EPA-01	(\$10,000)	Expired
	4335DR-VI-EPA-01	(\$100,000)	Expired
	4335DR-VI-EPA-02	\$1,008,000	To perform assessment of oil and hazardous materials releases, contaminated debris and other environmental events in USVI.
	4335DR-VI-EPA-04	\$10,000,000	Conduct oil and hazardous materials field operations, including cleanup and disposal of hazardous materials and oil, and response to orphaned containers in order to mitigate actual and potential threats to public health and safety.
	4335DR-VI-EPA-06	\$2,000,000	EPA provides support preparing for site-specific platforms for situational awareness; environmental data management; operational deployment plans; documentation of assessment activities and results; resource and financial tracking, accountability and cost documentation.
	PR-17090102-EPA-01	(\$20,000)	Expired
	3384EM-PR-EPA-01	(\$75,000)	Expired
	4336DR-PR-EPA-01	(\$125,000)	Expired
	4336DR-PR-EPA-02	\$1,008,000	To perform assessment and reconnaissance of oil and hazardous materials release, contaminated debris and storm impacted infrastructure which may pose a threat to federal responders, as well as, environmental harm in PR.
	4339DR-PR-EPA-01	\$303,000	EPA to FEMA NRCC or PR JFO/EOC
	4340DR-VI-EPA-01	\$130,000	EPA to FEMA NRCC or USVI JFO/EOC
	4340DR-VI-EPA-04	\$2,100,000	EPA to RRCC, JFO, EPA REOC, State EOC and other coordination venues to support FEMA response operations in the USVI.
Region 4	4337DR-FL-EPA-05	\$90,000	Activation for appropriate EPA personnel to perform the functions of ESF-10 w/ RRCC, IOF, JFO, FEMA's Incident Management Assistance Team (IMAT), Preliminary Damage Assessment (PDA) Team, or other teams and locations, at the direction and coordination of FEMA.

EPA Region	Mission Assignment Number	Funding Amount	Description of Assignment
	4337DR-FL-EPA-03	(\$525,000)	Expired
	4337DR-FL-EPA-04	(\$9,000,000)	Expired
	4337DR-FL-EPA-07	(\$675,000)	Expired
	4337DR-FL-EPA-08	\$10,000,000	Provide oil and hazardous material field response in support of FEMA response operations providing specialized expertise, conducting damage assessment of oil/hazmat waste impact evaluating hazards; and/or response, removal, or disposal of actual and potential oil discharges, and releases of hazardous substances, pollutants and contaminants and remove pollutants from vessels in or upon navigable waters and adjoining shorelines through November 30 th with a state cost share of 10%.
	4337DR-FL-EPA-09	\$675,000	Provide funding for EPA Landfill Specialty Teams through November 30 th with a state cost share of 10%.
Total Active MAs		\$43,314,000	

*A signed MA task order documenting the additional task requested by the PR Solid Waste Authority was received.

Total Number of Regional Personnel Involved in Response (as reported by R2 on October 20th and by R4 on October 17th)

Type	R2 Personnel	R4 Personnel	Total Regional Personnel
EPA*	164	27	191
Contractors	106	37	143
Totals	270	64	334

*These numbers include CEPD personnel.

Force Laydown for USVI* and PR (as reported by R2 on October 20th and by R4 on October 17th)

- ☐ Region 2 has entered resource orders into the WebEOC Personnel Resource Log.

Type	Personnel USVI	Personnel PR	Total Deployment
EPA*	19	71	90
Contractors	35	38	73
Totals	54	109	163

*These numbers include CEPD personnel.

Region 2 Significant Activities

- ☐ Disease outbreaks have been reported in numerous municipalities (diarrhea, conjunctivitis, vector-borne diseases etc.). As of October 20th, PR Department of Health (PRDH) has confirmed 74 potential cases of leptospirosis and one death due to the disease.

- ☐ Municipalities are concerned with the public health and environmental impacts of the increasing number of clandestine dumps.
- ☐ Operations for disposal of medical waste anticipated to begin on October 23rd by a contractor.
- ☐ U.S. Customs is requiring EPA's EERS contractor to pay a tax on supplies that have arrived in STT/STJ and STX prior to release, despite the fact that there is a U.S. Customs exemption for supplies for entities supporting FEMA response effort. The FEMA NRCC is assisting with resolving this issue.
- ☐ The Region 2 Regional Emergency Operation Center (REOC) and the Puerto Rico Incident Command are considering expanding the ICS structure.

Superfund and Oil Sites

- ☐ There are 34 Superfund and oil sites (30 in PR and 4 in USVI). The Regional Emergency Operations Center (REOC) is contacting the RPMs for each site and working with Region 2's Emergency and Remedial Response Division to provide updates.

SUPERFUND SITES (NPL, Removal, and Oil)						
Site	Type	Phase 1	Phase 2		Phase 3	All Phases Completed
		Post-Storm Assessment	Site Inspection Needed	Inspected	Additional Response Action	
PUERTO RICO						
Atlantic Fleet Weapons Training Area (Vieques)	NPL					
Barceloneta Landfill	NPL					
Arecibo Battery Recycling Co.	Removal & NPL*	09/22	No	-	No	09/22
Cabo Rojo Groundwater Contamination	NPL					
Cidra Groundwater Contamination	NPL	10/05	No	-	No	10/05
Corozal Well	Removal & NPL*	09/24	No	-	No	09/24
Culebra	Other					
Dorado Groundwater Contamination	NPL	10/12	Yes			
Fibers Public Supply Wells	NPL	10/05	Yes			
Fort Buchanan	Other	10/06	No	-	No	10/06
Frontera Creek	NPL	10/05	No	-	No	10/05

SUPERFUND SITES (NPL, Removal, and Oil)						
Site	Type	Phase 1	Phase 2		Phase 3	All Phases Completed
		Post-Storm Assessment	Site Inspection Needed	Inspected	Additional Response Action	
GE Wiring Devices	NPL	10/06	Yes			
Guayanilla Bay Oil Spill	Oil	10/06	Yes			
Hormigas Groundwater Plume	NPL	10/06	Yes			
Jansen, Inc.	Other	10/06	No	-	No	10/06
Juncos Landfill	NPL	09/30	Yes	10/05	No	10/05
Maunabo Urbano Public Wells	NPL	10/12	No	-	No	10/12
Naval Security Group Activity	Other	10/06	No	-	No	10/06
Papelera Puertorriqueña, Inc.	NPL	09/29	No	-	No	09/29
Pesticide Warehouse 1	NPL	10/04	Yes			
Pesticide Warehouse 3	NPL	10/04	Yes			
Prepa Palo Seco General Depot	Other	10/12	No	-	-	10/12
Puerto Rico Olefins	Other	10/11	Yes			
Puma Caribe (CAPECO)	Oil Response	09/21	No	-	No	09/21
RCA Del Caribe	NPL					
San Germán Groundwater Contamination	NPL	10/12	Yes			
Scorpio Recycling Inc.	NPL	10/05	Yes			
U.S. Naval Station	Other	10/06	No	-	No	10/06
Upjohn Facility	NPL	09/30	Yes			
V&M Albaladejo	NPL	10/12	No	-	-	10/12

SUPERFUND SITES (NPL, Removal, and Oil)						
Site	Type	Phase 1	Phase 2		Phase 3	All Phases Completed
		Post-Storm Assessment	Site Inspection Needed	Inspected	Additional Response Action	
Vega Alta Public Supply Wells	NPL	09/30	Yes			
Vega Baja Solid Waste Disposal	NPL	10/04	No	-	No	10/04
USVI						
Cruz Bay Oil Tank	Oil	10/09	Yes	10/11	Yes	
Island Chemical Corp/Virgin Islands Chemical Corp	NPL	10/05	No	-	No	10/05
Krum Bay Oil Spill at WAPA Facility	Oil	10/01	No	-	No	10/01
Tutu Wellfield	NPL	10/03	Yes			

Regulated Facilities in PR and USVI

- The Regulated Facility Team (RFT) continues to provide effective compliance assistance to Risk Management Plan (RMP), Facility Response Plans (FRP), and Spill Prevention, Control and Countermeasures (SPCC) regulated facilities. Several significant RMP, FRP, and SPCC companies in PR and the USVI, such as Puma, PRASA, Total, and Water and Power Authority (WAPA) have reported no damage to oil, chemical, or flammable operations.
- In the USVI, Virgin Island Asphalt Products facility was found to have sustained significant damage. Damage to some oil tanks was observed with discharges of product to secondary containment. The facility owner is addressing the issues with EPA oversight.

Facility Type	Total Field Assessments Completed to date (As of October 18 th)	Total # of Facilities to be Assessed
Puerto Rico		
RMP	81	56
FRP	29	23
SPCC (non-FRP)	123	0*
Total	233	79
USVI		
RMP	1	1
FRP	6	6

SPCC (non-FRP)	52	0*
Total	59	7

**Total number of SPCC facilities assessed is identified by impacted geographic areas.*

Drinking Water/Wastewater (DW/WW) Assessments in PR

- PRASA facility assessments are ongoing with EPA staff participating in PRASA facility assessments.
 - Out of PRASA's 51 facilities, 10 wastewater treatment plants (WWTPs) are non-operational, 6 of which are upstream of a drinking water intake.
 - Utuado (2.0 MGD) – Main trunk sewer collapsed, no sewage reaching the plant.
 - Ciales (1.5 MGD) – Main trunk sewer collapsed, no sewage reaching the plant. A contractor is on-site.
 - Corozal (1.25 MGD) – Main trunk sewer collapsed, no sewage reaching the plant. PRASA already has a contractor on site. It may take two weeks for repairs.
 - San Sebastián Old (0.4 MGD) – Influent pump station is out of service but all flow is being diverted to the San Sebastián New WWTP for treatment.
 - Maricao (0.25 MGD) – Main trunk sewer collapsed, no sewage reaching the plant.
 - 43 of the 115 drinking water treatment plants (WTPs) operated by PRASA are out of service.
 - 72 WTPs are working on alternate power or primary power.
 - 28.5% of the population are without drinking water services due to the lack of primary power, lack of diesel, operational problems, or clogged intakes.
 - Assessments are complete at around 80% of PRASA's 800 sanitary pump stations. As of October 20th, at least 233 sanitary pump stations are overflowing sewage due to lack of power, malfunctioning power generator or pumping problems. Of these 233 pump stations, 92 are located upstream of a water supply intake.
 - PR's biggest concern is the largest pump station, Torrecillas Pump Station, which suffered major damages due to flooding. PREPA was energizing the area to get the pump station back in service and PRASA is trying to obtain a generator from FEMA.

Drinking Water Plants Out of Service in PR (as of October 19 th)		
Name	Volume Processed (MGD)	Status
Caguas Sur	4.75	Due to recent rain event, raw water pipeline broken
Gurabo Nueva	4.0	Due to recent rain event, raw water pipeline broken
Jagual	0.6	Due to recent rain event, raw water pipeline was broken
Barrancas	0.55	Raw water intake out of service
Barranquitas Urbano	0.7	Due to recent rain events, raw water intake clogged
Las Bocas	1.0	Alternate power unit out of service
Cayey Urbano	3.5	Raw water intake out of service
Culebras Alto	0.33	Alternate power unit out of service
Comerio Río Hondo	3.0	Due to recent rain events, raw water intake was clogged
Humacao Las Piedras	6.0	Due to recent rain events, raw water intake was clogged
Ceiba Sur	3.6	Due to recent rain events, raw water intake was clogged
Maizales	0.5	Alternate power unit out of service
El Duque	1.0	Lack of diesel
Guayabota	0.3	Alternate power unit of raw water intake out of service
Guzmán Arriba	1.0	Raw water intake pipe broken
Arecibo Urbano	1.5	Alternate power unit out of service
Esperanza	0.5	Alternate power unit out of service
Río Arriba	0.25	Raw water intake collapsed
Quebrada	2.0	Raw water pump station out of service
Canalizo	0.14	Alternate power unit out of service

Drinking Water Plants Out of Service in PR (as of October 19 th)		
Name	Volume Processed (MGD)	Status
Mameyes Arriba	0.43	Alternate power unit out of service
Lares Nueva	4.0	Alternate power unit out of service
Indiera Alta	0.5	Raw water pump station flooded
Mameyes Abajo	0.22	Raw water pump station out of service.
Santa Isabel	1.0	Raw water pump station. Alternate power unit out of service.
Utua Urbano	3.5	Raw water pump station. Alternate power unit out of service.
Frontón	0.25	Alternate power unit out of service
Jaguas Pesas	0.25	Raw water intake alternate power unit out of service.
Morovis Norte	0.5	Alternate power unit out of service
Morovis Sur	4.0	Alternate power unit out of service
Sana Muerto	0.5	Alternate power unit out of service
Almirante Sur	1.0	Raw water pump station flooded.
Aguadilla	18	Raw water pump station out of service, a contractor is on site
Guajataca	2.0	Raw Water Supply clogged, being cleaned by DOD. This should be resolved next week.
Isabela	5.0	Operational problems at the facility
Sabana Grande	0.75	Raw water intake clogged.
Coamo Urbano	1.05	Collapsed raw water intake
Matrullas	0.25	Alternate power unit out of service
Orocovois Urbano	3.3	Raw water pipeline collapsed due to recent rain events
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Drinking Water/Wastewater (DW/WW) Assessments in USVI

- A boil water advisory remains in place across the USVI.
- Staff from the Department of Health (DOH) accompanied one EPA sampling team that delivered analytical results to locations that supply potable water to the public that tested positive for total coliform. As a result, DOH placed water restrictions on one hotel, two private schools, and one commercial property.

- EPA continues to coordinate drinking water sampling with DPNR. DPNR continues to notify the proprietors of the affected systems to ensure proper disinfection measures are taken.

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PR and USVI Air Monitoring Activities

- The PR EQB plans to conduct an assessment on the conditions of the ambient air monitoring network. The network went offline prior to Hurricane Maria's landfall. There is no update or information on the status or damages. EQB will staff an assessment team once their employees are available.
- In St. Thomas and St. Croix, on October 17th, EPA was requested by FEMA and DPNR to assess air quality in schools. A final report of assessment activities of air monitoring in schools was sent to Virgin Islands Territorial Emergency Management Agency (VITEMA), VI Department of Education, and members of the St. Croix Schools Task Force. Although recommendations were made to test for potential asbestos containing material and to take standard precautions to protect workers from exposure to mold and dust, no air monitoring was deemed as necessary.
- USACE has requested EPA assistance with air monitoring during the USACE's air curtain burning of vegetative debris activities.

PR Debris Recovery

EPA is adding a Hazardous Debris Assessment Team to each of the three field branches to coordinate with CEPD and USACE. These teams have a list of the landfills and other locations identified by CEPD that are being considered for temporary hazardous debris staging pads.

- The Hazardous Debris Assessment Teams were able to establish a new HW staging/collection area at the Mausoleum Debris Pile in Toa Baja.
- Municipalities report a large amount of unauthorized, clandestine dumps in their communities. They are concerned with public health and environmental impacts.

USVI Debris Recovery

- EPA received final selection for HHW and white goods collection sites in STX and is waiting for DPNR to identify a staging location on STT.
- USVI is allowing the burning of vegetative debris. USACE intends to segregate construction and demolition (C&D) debris prior to burn operations and VIWMA will handle the C&D debris.
- As of October 11th, EPA is planning for the transportation and disposal of stockpiled medical waste at the hospitals on St. Croix (50,000 lbs.) and St. Thomas (80,000 lbs.). The contract for repackaging, transportation, and disposal of medical waste is anticipated to be awarded by October 20th, which would allow for work to start by October 25th on St. Thomas followed by St. Croix.

Orphan Container, Pollution Response, and Vessels in PR and USVI

- USCG has tentatively identified 266 sunken vessels in PR as initial targets for assessment. Data collection and reporting procedures are under development.
- In the USVI, EPA contractors continued inputting the vessel assessment info into Response Manager database. 71 targeted vessels have been identified to date.

EPA Headquarters Significant Activities

- The HQ EOC is activated to Level 1 in support of EPA Regions 2 and 4 responses to Hurricanes Irma and Maria. For the Hurricane Irma and Maria responses, the HQ EOC is coordinating on several levels with EPA Regions 2 and 4, and other Federal agencies. The HQ EOC deployed personnel to the FEMA NRCC's ESF-10 desk. EPA Senior Management on the Policy Coordination Committee (PCC) developed and issued senior management objectives that form the basis of field strategy and tactics in response to Maria and Irma.

Other EPA Activities

OECA Civil/CID

- EPA has received *force majeure* claims from:
 - PREPA regarding its compliance with certain requirements of a 1999 Clean Air Act consent decree;
 - PRASA, the P.R. Department of Transportation & Public Works and the P.R. Highway and Transportation Authority relating to those entities' compliance with existing Clean Water Act consent decrees with EPA;
 - Puma Energy Caribe, LLC concerning its compliance with a RCRA consent decree.
 - The U.S. Navy concerning compliance with the Federal Facilities Agreement regarding the Atlantic Fleet Weapons Training Area NPL site.

Ex. 5 - Deliberative Process

Communications

- On October 17th, EPA Region 2 Administrator met with Governor Ricardo Rosselló.
- Region 2 public affairs and CIC staff are addressing media and community outreach actions to warn the public about improperly accessing Superfund sites.
 - The EPA CIC for the Dorado Groundwater Contamination site spoke with local residents and they were aware that wells are associated with contamination at a Superfund Site but indicated a need for water.
- A video, entitled "Community Water Assessment Mission," is now posted at <https://www.dvidshub.net/video/557519/community-water-assessment-mission>.
- The REOC and Field PIOs are working with reporters from the *Associated Press* and *El Nuevo Día* to do stories on EPA's work on wastewater and drinking water facility assessments, respectively.
- Bilingual Community Involvement Coordinators (CICs) are assisting the assessment teams in PR and USVI and will be supporting the Region 2 RA/DRA visit to the USVI on October 19th.
- Region 2, Region 4, and HQ activities related to Irma and Maria response efforts are available at: <http://www.epa.gov/hurricane-irma> and www.epa.gov/hurricane-maria, respectively.

To: Miles, Erin[Miles.Erin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Bailey, Ethel[Bailey.Ethel@epa.gov]
Cc: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]; Kelley, Rosemarie[Kelley.Rosemarie@epa.gov]; Pollins, Mark[Pollins.Mark@epa.gov]; Denton, Loren[Denton.Loren@epa.gov]
From: Bodine, Susan
Sent: Wed 10/18/2017 2:19:36 PM
Subject: NAHB issues and agenda
[NAHB Issues - October 24th Enforcement and Compliance Forum.pdf](#)
[Agenda - October 24th Enforcement and Compliance Fourm.pdf](#)

Please go ahead and share with our EPA attendees.

I will take care of sending to Lincoln for the Administrator's briefing book.

NAHB promised the list of their attendees today.

See below. We have both Cheryl Woodward in the Administrator's office and OECA setting this up, with help from Latonia. Can we make sure we are coordinating? I think Cheryl is willing to take on getting folks into the building.

Original Appointment-----

From: Woodward, Cheryl

Sent: Monday, October 16, 2017 11:58 AM

To: Woodward, Cheryl; Wagner, Kenneth

Cc: Cheatham-Strickland, Latonia

Subject: Meeting organized by Ken Wagner entitled "HOME BUILDERS MEETING" POC: Cheryl Woodward 564-1274 (logistics)

When: Tuesday, October 24, 2017 10:00 AM-12:00 PM (UTC-05:00) Eastern Time (US & Canada).

Where: ALM

NOTE: If you are escorting the outside attendee's to this meeting, a list to security of attendee's with escort to the meeting room is required for this meeting. Provide instruction to the office and which entrance the escort will greet them.



**Construction Stormwater Enforcement & Compliance:
Working with Regulated Stakeholders to Achieve Results**

**U.S. Environmental Protection Agency, Washington D.C.
Tuesday, October 24, 2017
10:00 a.m. – 12:00 p.m.**

Attendees:

EPA Office of Enforcement and Compliance Assurance (OECA) and Office of Water (OW) senior staff, Regional OECA officials, program staff

National Association of Home Builders (NAHB) members from each EPA region, NAHB staff

Objective:

NAHB members will identify top enforcement issues that generate uncertainty, redundancy, and increased costs in the field.

Participants will discuss opportunities to improve compliance and clarify state/federal enforcement roles so that all stakeholders understand responsibilities and are better equipped to meet compliance goals.

AGENDA

- I. Welcome** – Susan Bodine, EPA; Greg Ugalde, NAHB Second Vice Chairman of the Board
- II. Introductions**
- III. Key Enforcement Issues** – NAHB Members
 - ☐ Overly burdensome requirements for small sites
 - ☐ Limited opportunity to correct minor violations in the field
 - ☐ Overlap of state and federal authority
 - ☐ Confusion over enforceability of SWPPP details
- IV. Potential Solutions**
- V. Next Steps**

Issues Backgrounder

Construction Stormwater Enforcement & Compliance Forum

U.S. EPA, Washington D.C.
Tuesday, October 24, 2017
10:00 a.m. – 12:00 p.m.

Overly burdensome requirements for small sites

EPA's current 300-plus page Construction General Permit (CGP) contains identical requirements for all sites, regardless of site size or risk. The level of detail and work needed to develop and implement Storm Water Pollution Prevention Plans or SWPPPs under this permit is often overwhelming, complicated, and confusing for small operators. NAHB previously worked with EPA to develop a simplified compliance template for single family homes within large subdivisions. We believe this template could fairly easily be turned into a streamlined permit option. Because a small lot permit will be concise, easier to understand, and better specify permit requirements, it will foster higher rates of compliance among these low-risk sites.

Limited opportunity to correct minor violations in the field

NAHB believes a missed opportunity exists during EPA's stormwater inspection process to educate and provide assistance to operators trying to comply in good faith. Rather than assessing monetary penalties for every infraction, EPA inspectors could identify minor infractions to be corrected immediately or within a specific period of time without threat of further enforcement; provided those violations do not result in environmental harm. This "*right to cure*" protection for first time violators would remove the fear factor associated with those trying to comply in good faith.

Overlap of state and federal authority

NAHB has long advocated for better coordination between state and federal partners when it comes to stormwater enforcement and compliance assistance. Members report that visits from multiple levels of government to the same site can result in very different observations and citations. As EPA seeks to restore the balance between compliance assurance and enforcement obligations, NAHB believes states, not EPA should play the lead role in targeting and initiating enforcement activities.

Enforceability of Stormwater Pollution Prevention Plans (SWPPPs)

In February 2017, EPA's most recent Construction General Permit clarified that on-site compliance plans or SWPPPs are a "flexible, external tool" for carrying out permit responsibilities. However, builders continue to report that they are being cited for minor differences between their compliance plans and actual site practices and conditions. A formal EPA policy clarifying that individual details of on-site compliance plans do not create or equate to permit limits could put an end to these incidents.

To: DeLeon, Rafael[DeLeon.Rafael@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
Cc: Mackey, Cyndy[Mackey.Cyndy@epa.gov]; Lammie, Benjamin[Lammie.Benjamin@epa.gov]; Patterson, Kenneth[Patterson.Kenneth@epa.gov]; Berube, Anne[berube.anne@epa.gov]; Miles, Erin[Miles.Erin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]
From: Bodine, Susan
Sent: Fri 10/13/2017 8:56:34 PM
Subject: RE: Assistance with EPA Issue: Kustoff Staff Inquiry
National Fireworks summary

Thank you. I have no questions. I assume this will be in CMS and assigned to R. 4.

From: DeLeon, Rafael
Sent: Friday, October 13, 2017 4:32 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Starfield, Lawrence <Starfield.Lawrence@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Cc: Mackey, Cyndy <Mackey.Cyndy@epa.gov>; Lammie, Benjamin <Lammie.Benjamin@epa.gov>; Patterson, Kenneth <Patterson.Kenneth@epa.gov>; Berube, Anne <berube.anne@epa.gov>
Subject: Assistance with EPA Issue: Kustoff Staff Inquiry

Susan

I have attached an email from Keith Weisinger, the site attorney for the National Fireworks Superfund Site. He prepared a short summary, which includes information responsive to SSL's letter.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Please let me know if you have questions or concerns.

Thank you,

Rafael

From: Bodine, Susan
Sent: Friday, October 13, 2017 12:24 PM
To: DeLeon, Rafael <Deleon.Rafael@epa.gov>
Subject: Fwd: Assistance with EPA Issue

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
To: "Mackey, Cyndy" <Mackey.Cyndy@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Patrick Traylor" <traylor.patrick@epa.gov>
Subject: FW: Assistance with EPA Issue

Cyndy,

The attached relates to a Region 4 site.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

From: Greaves, Holly
Sent: Thursday, October 12, 2017 2:23 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>;
Traylor, Patrick <traylor.patrick@epa.gov>
Subject: FW: Assistance with EPA Issue

Good afternoon,

I received the email below from a staffer to Congressman Kustoff related to a consent degree between EPA and a PRP. The attached letter is actually addressed to DOJ ENRD, whom I assume we are working with on this matter.

Are any of you familiar with this matter and/or is it something that you can assist with? It sounds as though our region 4 office has been taking the lead.

Thanks,

Holly

From: Hogin, Andrew [<mailto:Andrew.Hogin@mail.house.gov>]
Sent: Thursday, October 12, 2017 1:30 PM
To: Greaves, Holly <greaves.holly@epa.gov>
Subject: FW: Assistance with EPA Issue

Hi Holly – the below email is from the company owner that the attached docs pertain to. Long story short – they have been dealing with an EPA issue on remediation of OU2 runoff that as I understand it dates back to a DOD contractor that used the site in the 1950s.

I spoke to the owner this am and she said that they have been paying bills to the EPA for administration fees to the tune of \$100K a year! Most recently they were billed for \$1.2m for oversight and overhead fees? This is all coming out of the Atlanta office and no actual employee has been to the site.

The EPA now threatening to issue a unilateral order against their company. So, I've reached out to see if you can help expedite this to the right person – at this point that's all I know to do. I appreciate your help on this. Hope you are doing well and let's catch up soon.

Thanks

Andrew Hogin, Legislative Assistant

Office of Congressman David Kustoff

508 Cannon Bldg. Washington D.C. 20515

(o) 202-225-4714

(c) 615-578-1778

From: Susan Lee <slee@securitysignalsinc.com>

Date: Tuesday, October 10, 2017 at 10:53 AM

To: "Hogin, Andrew" <Andrew.Hogin@mail.house.gov>

Cc: "blee@securitysignalsinc.com" <blee@securitysignalsinc.com>

Subject: Assistance with EPA Issue

Andrew:

We were given your name as a contact in Representative Kustoff's office for matters regarding the EPA.

As the attached correspondence will explain, our Cordova plant in Steve Cohen's district is the subject property of a long term EPA investigation; however, we have a second facility located at 9509 Highway 64, Somerville 38068 in Representative Kustoff's district which will be directly impacted by failure to reach a fair resolution in this case.

We have worked with the EPA for over fifteen years on the Cordova site and, until recently, felt as if we had an agreed upon path toward remediation. That perceived course has taken a turn for the worse, with the EPA now threatening to issue a unilateral order against our company.

We met with Steve Cohen on Friday, who suggested we should also contact Representative Kustoff for joint involvement on this issue. We would appreciate any help your office can provide in this regard.

Our thanks for your consideration of this matter.

Susan D. Lee

President

Security Signals, Inc.

(901) 754-7228 Phone

(901) 755-9612 Fax

slee@securitysignalsinc.com

Cc: Senn, John[Senn.John@epa.gov]; Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]
To: Bowman, Liz[Bowman.Liz@epa.gov]
From: Bodine, Susan
Sent: Fri 10/20/2017 4:57:27 PM
Subject: Fwd: Draft press release for Macy's settlement
[Macy's RCRA news release.docx](#)
[ATT00001.htm](#)

Ex. 5 - Deliberative Process

Sent from my iPhone

Begin forwarded message:

From: "Senn, John" <Senn.John@epa.gov>
Date: October 19, 2017 at 3:37:34 PM EDT
To: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Traylor, Patrick" <traylor.patrick@epa.gov>, "Bodine, Susan" <bodine.susan@epa.gov>
Subject: FW: Draft press release for Macy's settlement

Ex. 5 - Deliberative Process

in the
Let

me know if anyone has comments/edits.
-John

From: Gray, David
Sent: Wednesday, October 18, 2017 4:16 PM
To: Grantham, Nancy; Senn, John
Cc: Taheri, Diane
Subject: Draft press release for Macy's settlement

Oklahoma wants to issue a press release on the Macy's settlement. Here is a copy of the draft for your review.

David

To: Jackson, Ryan[jackson.ryan@epa.gov]; Bowman, Liz[Bowman.Liz@epa.gov]
Cc: Patrick Traylor (traylor.patrick@epa.gov)[traylor.patrick@epa.gov]
From: Bodine, Susan
Sent: Fri 10/20/2017 3:46:40 PM
Subject: Rin Fraud Case.docx
Rin Fraud Case.docx

Will bring copies to discuss at noon.

To: Greenwalt, Sarah[greenwalt.sarah@epa.gov]; Fotouhi, David[Fotouhi.David@epa.gov];
Forsgren, Lee[Forsgren.Lee@epa.gov]; Bolen, Brittany[bolen.brittany@epa.gov]
From: Bodine, Susan
Sent: Wed 10/18/2017 12:59:02 AM
Subject: Questions
questions for SP.docx
ATT00001.htm

To: Starfield, Lawrence[Starfield.Lawrence@epa.gov]; Traylor, Patrick[traylor.patrick@epa.gov]; Mackey, Cyndy[Mackey.Cyndy@epa.gov]; Leff, Karin[Leff.Karin@epa.gov]; Miles, Erin[Miles.Erin@epa.gov]; Shiffman, Cari[Shiffman.Cari@epa.gov]

From: Bodine, Susan

Sent: Fri 10/20/2017 1:56:21 PM

Subject: Fwd: [deliberative] Current version - Administrator's Emphasis List

[image002.gif](#)

[ATT00001.htm](#)

[image001.gif](#)

[ATT00002.htm](#)

[Top 10 10.18.17 v5.docx](#)

[ATT00003.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Falvo, Nicholas" <falvo.nicholas@epa.gov>

Date: October 20, 2017 at 9:48:09 AM EDT

To: "Bodine, Susan" <bodine.susan@epa.gov>

Subject: FW: [deliberative] Current version - Administrator's Emphasis List

From: Woolford, James
Sent: Wednesday, October 18, 2017 2:49 PM
To: Kelly, Albert <kelly.albert@epa.gov>; Darwin, Veronica <darwin.veronica@epa.gov>; Falvo, Nicholas <falvo.nicholas@epa.gov>; Fonseca, Silvina <Fonseca.Silvina@epa.gov>
Subject: FW: [deliberative] Current version - Administrator's Emphasis List

Current list – not for further distribution – but if you have suggestions, please let me know.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Jim Woolford, Director

Office of Superfund Remediation and Technology Innovation

Office of Land and Emergency Management

US Environmental Protection Agency

1200 Penn. Ave., NW

Washington, DC 20460

(Mail Code 5201-P)

Our mission is to return the most contaminated areas of the country to communities for safe reuse in a healthy environment.

Phone: (703) 603 8960– Main Office Line

Physically located at:

Room 5622

One Potomac Yard (South)
2777 S. Crystal Dr.
Arlington, VA 22202

To: DeLeon, Rafael[Deleon.Rafael@epa.gov]
From: Bodine, Susan
Sent: Fri 10/13/2017 4:24:26 PM
Subject: Fwd: Assistance with EPA Issue
[EPA Letter 10-10-2017.pdf](#)
[ATT00001.htm](#)

Sent from my iPhone

Begin forwarded message:

From: "Bodine, Susan" <bodine.susan@epa.gov>
To: "Mackey, Cyndy" <Mackey.Cyndy@epa.gov>
Cc: "Starfield, Lawrence" <Starfield.Lawrence@epa.gov>, "Patrick Traylor
(traylor.patrick@epa.gov)" <traylor.patrick@epa.gov>
Subject: FW: Assistance with EPA Issue

Cyndy,

The attached relates to a Region 4 site. Can we get some background on this? Another former government contractor site with potential federal liability. Already referred to DOJ.

From: Greaves, Holly
Sent: Thursday, October 12, 2017 2:23 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>;
Traylor, Patrick <traylor.patrick@epa.gov>
Subject: FW: Assistance with EPA Issue

Good afternoon,

I received the email below from a staffer to Congressman Kustoff related to a consent degree between EPA and a PRP. The attached letter is actually addressed to DOJ ENRD, whom I assume we are working with on this matter.

Are any of you familiar with this matter and/or is it something that you can assist with? It sounds as though our region 4 office has been taking the lead.

Thanks,

Holly

From: Hogin, Andrew [<mailto:Andrew.Hogin@mail.house.gov>]
Sent: Thursday, October 12, 2017 1:30 PM
To: Greaves, Holly <greaves.holly@epa.gov>
Subject: FW: Assistance with EPA Issue

Hi Holly – the below email is from the company owner that the attached docs pertain to. Long story short – they have been dealing with an EPA issue on remediation of OU2 runoff that as I understand it dates back to a DOD contractor that used the site in the 1950s.

I spoke to the owner this am and she said that they have been paying bills to the EPA for administration fees to the tune of \$100K a year! Most recently they were billed for \$1.2m for oversight and overhead fees? This is all coming out of the Atlanta office and no actual employee has been to the site.

The EPA now threatening to issue a unilateral order against their company. So, I've reached out to see if you can help expedite this to the right person – at this point that's all I know to do. I appreciate your help on this. Hope you are doing well and let's catch up soon.

Thanks

Andrew Hogin, Legislative Assistant

Office of Congressman David Kustoff

508 Cannon Bldg. Washington D.C. 20515

(o) 202-225-4714

(c) 615-578-1778

From: Susan Lee <slee@securitysignalsinc.com>

Date: Tuesday, October 10, 2017 at 10:53 AM

To: "Hogin, Andrew" <Andrew.Hogin@mail.house.gov>

Cc: "blee@securitysignalsinc.com" <blee@securitysignalsinc.com>

Subject: Assistance with EPA Issue

Andrew:

We were given your name as a contact in Representative Kustoff's office for matters regarding the EPA.

As the attached correspondence will explain, our Cordova plant in Steve Cohen's district is the subject property of a long term EPA investigation; however, we have a second facility located at 9509 Highway 64, Somerville 38068 in Representative Kustoff's district which will be directly impacted by failure to reach a fair resolution in this case.

We have worked with the EPA for over fifteen years on the Cordova site and, until recently, felt as if we had an agreed upon path toward remediation. That perceived course has taken a turn for the worse, with the EPA now threatening to issue a unilateral order against our company.

We met with Steve Cohen on Friday, who suggested we should also contact Representative Kustoff for joint involvement on this issue. We would appreciate any help your office can provide in this regard.

Our thanks for your consideration of this matter.

Susan D. Lee

President

Security Signals, Inc.

(901) 754-7228 Phone

(901) 755-9612 Fax

slee@securitysignalsinc.com

Security Signals, Inc.
ORDNANCE DEVICES



October 10, 2017

The Honorable David Kustoff
United States House of Representatives
508 Cannon House Office Building
Washington, DC 20515

Dear Representative Kustoff:

I am writing to ask for your assistance with an EPA settlement agreement which has reached an impasse after more than fifteen years of voluntary cooperation by our company. Although the issue is regarding our property in Cordova, Steve Cohen's district, there is a strong likelihood that our Somerville plant in your district will be adversely impacted if a reasonable agreement cannot be reached. We have already met with Congressman Cohen who suggested that we involve you as well. We would deeply appreciate any assistance your office may be able to provide.

Below is the letter sent to Congressman Cohen:

My company, Security Signals, Inc. ("SSI") is a small, family-owned business that has operated in Cordova Tennessee since the 1948, both as a manufacturer of machined metal parts and small pyrotechnic devices (Signal Flares, etc. for the DOD). SSI currently owns 22 acres of a 260 acre tract that formerly was operated and/or owned by National Fireworks, Inc., a large government contractor during war efforts.

I have attached a letter to EPA our legal counsel sent today, which explains the history of this matter and the problems that SSI is presently having with EPA. SSI has fully cooperated with EPA throughout the years and has spent nearly two million dollars investigating contamination at/from the property currently owned by SSI, as well as contamination that is coming from other parts of the former NFI property. Despite our cooperation, SSI has not been able to obtain a reasonable agreement with EPA that allows it to proceed with a remedy for groundwater contamination at OU2, despite SSI's willingness to implement that remedy.

We would greatly appreciate a meeting with you as soon as possible so that we can discuss how you might assist us in achieving a reasonable resolution of this matter.

Sincerely,

Susan D. Lee
President

BASS BERRY + SIMS_{nc}

Jessalyn H. Zeigler
jzeigler@bassberry.com
(615) 742-6289

September 20, 2017

VIA EMAIL

Raimy Kamons
Environmental Enforcement Section
Environment and Natural Resources Division
United States Department of Justice
P.O. Box 7611
Washington, DC 20044-7611

Re: Security Signals, Inc.: Consent Decree

Dear Raimy:

As you know, I represent Security Signals, Inc. ("SSI") in this matter. This letter is in response to your comments on our call on August 30, 2017. First, by way of history:

- EPA issued to SSI a 104(e) by letter dated August 21, 2006; SSI diligently investigated this request and submitted a response on November 17, 2006
- Effective April 18, 2007, SSI voluntarily entered into a Superfund Alternative Site Administrative Settlement Agreement and Order on Consent ("AOC") with EPA to investigate contamination at or from OU2 of the National Fireworks, Inc. Site (a site historically operated during the wars for the making of ammunition and related items for war efforts, and otherwise operated in significant part by federal government contractors)
- SSI diligently conducted everything required of it under the AOC; SSI completed the RI/FS for OU2, and EPA issued an "Interim Record of Decision" in September 2014, after holding a public meeting and receiving public comments on August 21, 2014
- EPA has represented to SSI that the IROD is only referred to as "Interim" because it is the ROD for OU2 (which is approximately 22 acres) and not for the enter NFI Site (which is approximately 260 acres); SSI understands that this is the final remedy for Plumes C, D and E at OU2

- The remedy selected for OU2 is phytoremediation with an estimated cost of \$3,600,000; SSI has always cooperated with EPA and expressed a willingness to implement the remedy, subject to working out an acceptable agreement to do
- On October 26, 2015 SSI received a proposed Consent Decree ("CD") from EPA; this draft CD was issued both to SSI and to National Coatings, Inc. and contained language therein that the United States (i.e. the Department of Defense) would be released and indemnified as a Settling Federal Agency; SSI issued preliminary comments on this proposed CD on January 4, 2016
- NCC issued a response to EPA's proposed CD on December 31, 2015 denying any responsibility for OU2 or the Site; EPA responded to that letter on January 16, 2016 stating that NCC is liable as a successor to National Fireworks Ordinance Corporation, which formerly operated the Site
- On or about May 9, 2016, EPA informed SSI that it could not find a 104(e) request ever having been issued to NCC (SSI does have a copy of a February 25, 2006 General Notice and Demand for Payment Letter EPA issued to NCC¹, but is unaware of whether NCC ever responded); EPA sent a second 104(e) to NCC in June 2016; NCC responded on August 15, 2006 with very little information provided
- On July 1, 2016 SSI received a revised SCORPIOS report from EPA reducing the amount of EPA's claimed past response costs from \$1,300,000 to \$152,400, a significant difference; the revised SCORPIOS, however, still lacks any explanation that the costs delineated are for OU2 or why these costs exist when SSI paid EPA's oversight costs on an annual basis as part of the AOC it had entered into
- SSI received a revised CD from you on May 22, 2017 that deleted National Coatings as a recipient, still contained DOD as a released and indemnified SFA, still contained \$1.3 million as EPA's past response costs for which SSI was deemed responsible, and made very few of SSI's requested changes

Subsequently, at your request representatives of SSI and I traveled to Washington, D.C. to meet with you, EPA and DOD. You stated that SSI did not need to review the revised CD prior to that meeting as the terms were in flux pending our discussions. At that meeting, both we and DOD noted the absence of NCC at the table and stated our unified belief that NCC needed to be part of the discussion. As you know, NCC is a successor to NFOC. We have provided documents to EPA that show that NFOC was a former operator of the portions of the Site, including OU2. Those include maps called "National Firework Ordnance Corp. Cordova" (SSI 1248 and 1193, attached respectively as Exhibit A and Exhibit B), an NFOC Inter-office Memo dated 6/3/55 stating in pertinent part:

¹ Note that SSI was unaware until years later that EPA had sent this letter to NCC and had identified NCC as a potentially responsible party for OU2 and the Site at that time. It is puzzling that EPA did not require NCC to help SSI conduct the remedial investigation and feasibility study at OU2.

“We were again closely questioned by several people regarding the connection between Security Signals, Inc. and National Fireworks Ordinance Corporation; and the situation was fully explained that Dutcher, Sr. was an old line employee of ours and that Dutcher, Jr. was on Cordova’s payroll as adviser to me; but that other than the fact the Security Signals, Inc. operated within our area in property heretofore leased from us and about to be purchased, there was absolutely no connection....”

(SSI 1195-96, attached as Exhibit C (emphasis added)), and an April 6, 1955 NFOC Inter-Office Memorandum stating that NFOC was excluding Buildings 40 and 41 from property they were relinquishing at that time (attached as Exhibit D).

We left that meeting with the understanding the absence of NCC in the plans for OU2 was going to be re-visited. We further expressed our concerns about the past costs not being delineated and that \$1.3 million remained set forth in the revised CD we received. DOD expressed a willingness to participate in the costs incurred at OU2 provided that it received contribution protection, which SSI also agreed both parties needed.

On the follow-up call on August 30, 2017, you took a different tact², stating that:

- EPA would not require NCC to participate in OU2’s remediation or past investigation costs
- EPA would not require DOD to participate or resolve its potential liability regarding OU2’s remediation or SSI’s investigation costs
- SSI would have 60 days to decide whether it would voluntarily enter into the CD or EPA would issue a unilateral order against it

We responded on the call to your statements that Plumes C, D, and E were SSI’s sole responsibility by pointing out EPA’s own statements to the contrary in the IROD and at the public meeting that Plume E is from an unknown source. Furthermore, SSI has spent costs investigating Plumes A and B, which EPA concedes are coming from an off-site source, and EPA agreed at the meeting in D.C. that SSI’s concerns that the money it would spend to remediate Plumes C, D and E could also end up constituting in whole or in part a remedy for Plumes A and B were legitimate.

We find it contrary to common sense as well as this Administration’s policies that EPA would take this position with SSI, a small family-owned company who has cooperated with EPA from the beginning at great expense to it. This is despite the fact that SSI requested from the beginning for this to be a State-lead site, which would have saved SSI significant amounts of money. EPA refused to allow this, stating that multiple potentially responsible parties, including NFI’s successor and DOD, were involved and that EPA could bring these other PRPs to the table. Yet now EPA is refusing to do so for OU2.

² It has become apparent that SSI was the only party surprised on that call by EPA’s change of tact, and that while SSI had not been provided with a preview of that call the others on the call for the State and for DOD had been given such a courtesy, despite not being the party that would be adversely affected and despite SSI’s full and voluntary cooperation with EPA to date.

Furthermore, we note specifically that the revised CD has the following concerns:

- SSI would have to pay two masters to oversee the remedy: EPA and TDEC
- Since the United States is a PRP at OU2, SSI cannot agree to release the United States from liability and/or indemnify the United States without a resolution with the Army and Navy that is agreeable to SSI; any resolution of Army and Navy's liability should reduce the financial responsibility/financial burden of SSI;
- SSI receives no contribution protection in the CD; EPA has no reason to pursue SSI for any costs at the Site beyond implementing the remedy set forth in the IROD and there appears to be absolutely no benefits of voluntary participation provided to SSI to enter into the CD as it is currently drafted
- EPA has refused to agree to the vast majority of SSI's requested amendments to the CD, even though the requests are reasonable
- EPA has unreasonably refused to allow the required financial assurance to be lowered as money is spent, putting a high burden on SSI to maintain \$3.6 million in financial assurance even after it spends \$1.8 million on the initial remedy
- EPA has seemingly allowed the financial test to be used for financial assurance, yet only if it is accompanied by a "standby funding commitment, which obligates [SSI] to pay funds to or at the direction of EPA, up to the amount financially assured..."
- The title evidence already has been provided to EPA by SSI and SSI requested these requirements be deleted, but EPA has refused to do so; requiring an update to such is both burdensome and unnecessary
- Stipulated penalties and interest should be optional as the intention of this CD should not be to be punitive
- Any moneys received by EPA from SSI or from SSI's financial assurance and not used for OU2 will be either used for other portions of the Site or provided to the Superfund Account generally and not returned to SSI
- Waste material is defined to include solid waste rather than hazardous substances as is set forth in CERCLA
- It is not clear that Future Response Costs are only those pertaining to OU2 as opposed to the remainder of the Site
- SSI's contractor should be allowed to maintain the required insurance, rather than SSI directly
- The Site, including OU2, could still be listed on the NPL
- Should an orphan share be attributable to Island Air as a successor to NFI, and why was this first raised to us at the meeting by DOD and not by EPA/DOJ

In sum, a voluntary agreement should be negotiated and entering into such an agreement should result in benefits to the company doing so. Here, the terms of the CD are not favorable to SSI in the least, and the benefits of settlement appear to be completely absent. The EPA itself lists the following as the benefits of settlement: (from <https://www.epa.gov/enforcement/incentives-negotiating-superfund-settlements>)

Incentives	Overview
Contribution Protection	Settling parties receive protection from contribution claims made by non-settling parties. The scope of the contribution protection is discussed in the consent decree or administrative settlement.
Covenants Not to Sue	A settling party's present and future liability is limited according to the terms of the consent decree or administrative settlements.
Mixed Funding	Generally, mixed funding refers to "pre-authorized" mixed funding, in which the settling parties agree to do the clean up and EPA agrees to finance a portion of the costs (which EPA will try to recover from non-settlers).
Orphan Share Compensation	Orphan shares are the shares of cleanup liability attributable to insolvent or defunct parties. For example, if there are ten PRPs at a site, and one of them is insolvent, then the orphan share is one-tenth of the estimated cleanup cost. EPA's orphan share compensation policy, however, allows EPA to not pursue some or all of the orphan share from parties that are willing to sign a cleanup agreement. Because Superfund liability is joint and several, EPA could require the liable, solvent parties to pay the orphan share, too. [More information is available from the <u>orphan share compensation category of the Superfund cleanup policy and guidance document database</u> .]
Potentially Lower Costs of Cleanup	Potentially responsible parties generally can perform the cleanup for less money than it would cost EPA to perform the cleanup and therefore it is in the PRP's interest to perform the cleanup. If EPA performs the cleanup, EPA will pursue the PRPs to pay EPA's costs back after the cleanup is done.
Special Accounts	If EPA settles with some PRPs before settling with other PRPs to do the cleanup, EPA may deposit the money from that early settlement into a Superfund site-specific special account. Special Account money may be available as part of a settlement package for parties willing to sign a cleanup agreement. [More information on <u>Superfund Special Accounts</u> .]
Suspended Listing	For sites that qualify to be listed on the National Priorities List, but are not yet listed, EPA will not pursue listing the site if parties sign a Superfund alternative approach cleanup agreement.

None of these appear in the CD.

SSI remains committed to a timely resolution of this matter so that the remedial effort can move forward without further delay. SSI perceives the delays to be in substantial part caused by administrative difficulties and personnel changes at the federal level. We yet again request that the State take the lead on OU2 and save SSI the expense of EPA's oversight. Alternatively, we request that EPA and DOJ act reasonably, fairly negotiate with SSI on the terms of the CD, provide incentives to SSI to settle with EPA, and work with SSI in bringing other PRPs to the table.

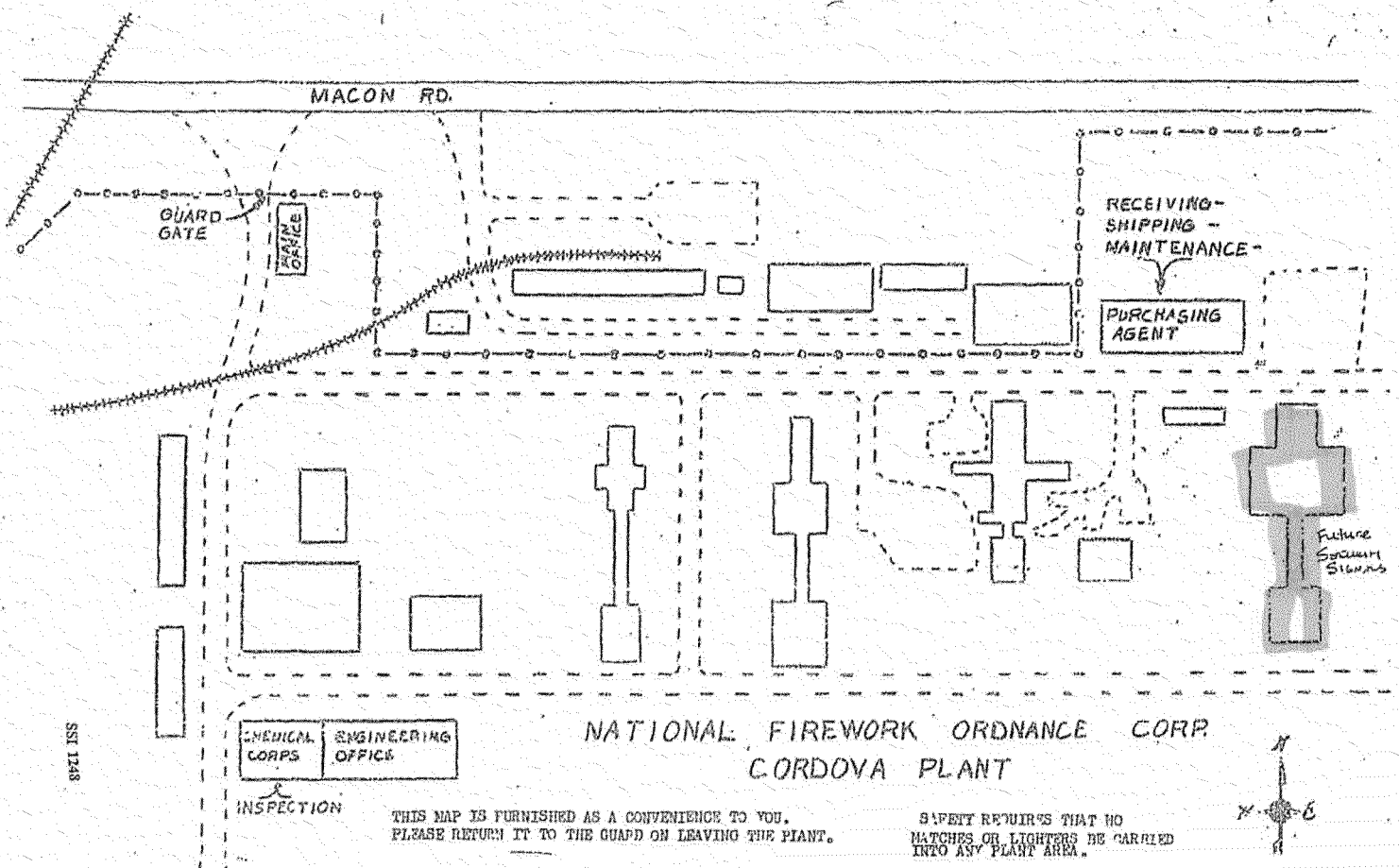
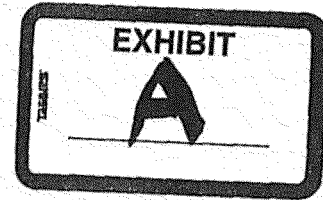
Sincerely,

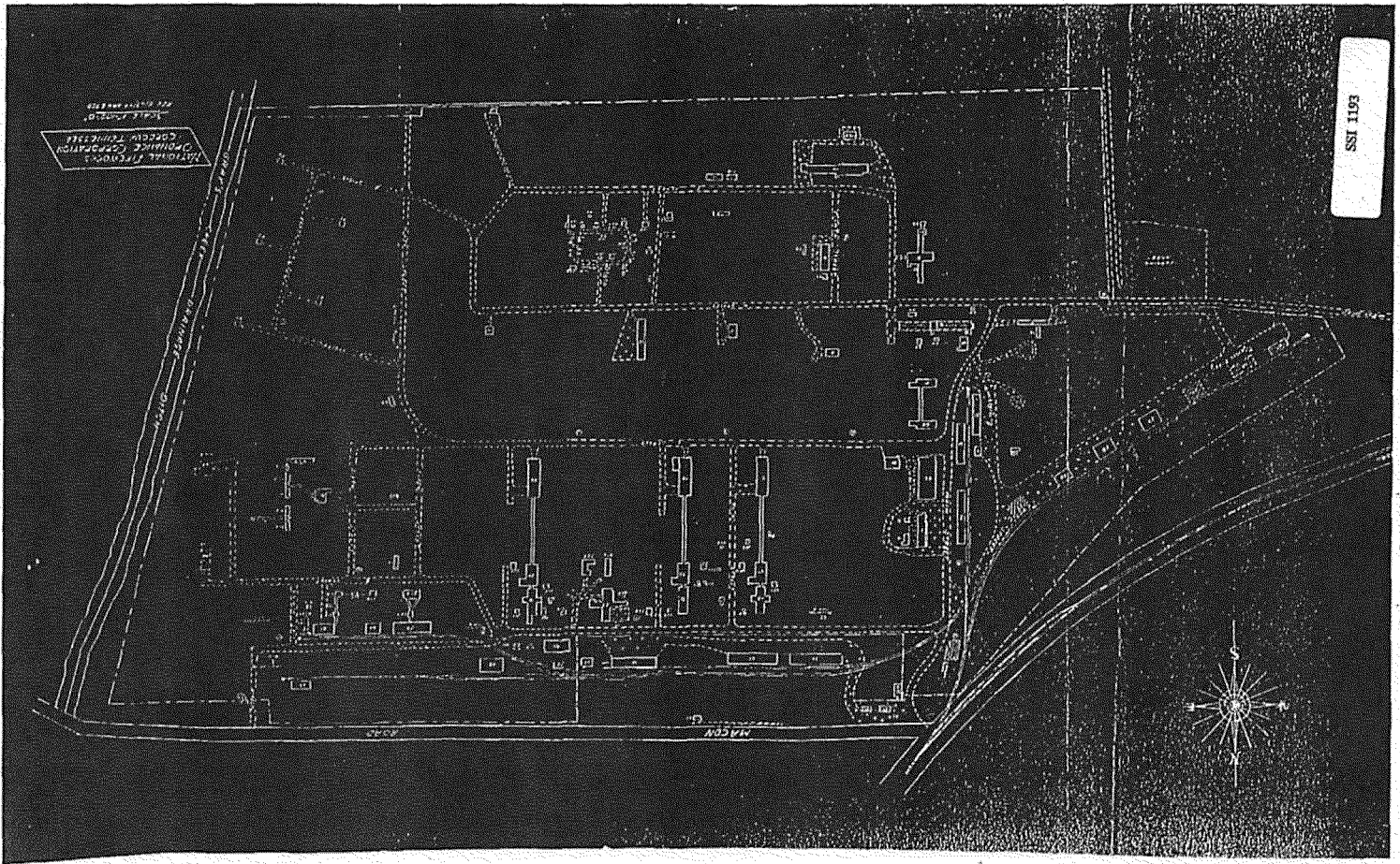
A handwritten signature in black ink, appearing to read "Jessalyn H. Zeigler". The signature is fluid and cursive, with a large initial "J" and a long, sweeping underline.

Jessalyn H. Zeigler

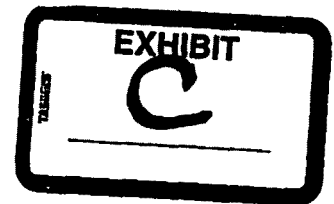
cc: Keith Weisinger, Esq. (EPA)
Leslie Hill, Esq. (U.S. DOD)
Steve Stout (TDEC)
Susan Lee (Security Signals, Inc.)

23536786.4





National Fireworks Ordnance Corporation
INTER-OFFICE MEMORANDUM
CORDOVA, TENNESSEE



DATE 6/3/55

TO H. H. Wolfert

FROM F. M. Laurence

SUBJECT Quotation Request from Ordnance Ammunition Command
No. OAC APH 98-55 Against Original Invitation for
Bid 11-173-ORD-55-22

At invitation, Tom Dutcher and myself, yesterday, called at Cincinnati Ordnance District for the purpose of hand carrying our bid for the 3,000,000 each hand grenade fuzes, Practice M205A2, and to discuss any thing needful with the Contracting Officer and his representatives.

For your review, you will find attached OAO's offer letter of 23 May, Security Signals' proposal in work sheet copy, copy of Security Signals' covering letter, and copy of Cost and Price Analysis Form DD 633, as we filled it out, together with copy of our letter of 3 January offering our endorsement to the Security Signals, Inc. bid.

In accordance with our discussion together, the Cost and Price Analysis Form was filled out based upon the agreed selling price of .23851 and the direct material factor of .14746.

A break down of the work sheets gives a factual labor figure of .03630. Security Signals' experience proves that an overhead factor of 75% is satisfactory. Furthermore, our first cost break down on the initial bid had indicated a 75% factor, so therefore, it was almost necessary that we stick with it. The 5% G. & A. can be supported by Dutcher's operating statements and break down of manufacturing expenses.

What remained was naturally the profit factor, and this worked out to be 7.2/3%; and everybody at Cincinnati seemed to be happy, both with this break down and with the unit cost of Security Signals' bid.

We were again closely questioned by several people regarding the connection between Security Signals, Inc. and National Fireworks Ordnance Corporation; and the situation was fully explained that Dutcher, Sr. was an old line employee of ours and that Dutcher, Jr. was on Cordova's payroll as adviser to me; but that other than the fact that Security Signals, Inc. operated within our area in property heretofore leased from us and about to be purchased, there was absolutely no connection. All inquirers were informed that National held no stock in Security and Security held no stock in National; and that National had no control over the management policy of Security Signals; and that their subcontracts for performable work had

SSI 1195

H. H. Wolfert

6/3/55

been let and given between us in the past.

It was called to the attention of these people at Ordnance District that all this detail had been gone through with before at Ordnance Ammunition Command level, and that their blessing had been placed upon it as was evidenced by the fact that Security Signals' initial bid was accepted, and they were invited to rebid since their proposition was within 120% of the advertised winning price.

Certain detail now becomes necessary, and a portion of it must be supplied by National. The balance will be supplied by Security Signals for direct submission to Cincinnati Ordnance District under my cognizance.

A break down of the Bill of Material is required, showing all factors of waste, tests, rejects, shrinkage, ~~draws~~ in etc. A standard copy of our normal Bill of Material will adequately serve this purpose. (Carbora made me Prof M on this job)

An analysis is requested of our average labor hour cost, which has been given to Cincinnati as \$1.148. Explanatory note should accompany this labor analysis to indicate whether it is a job average or a weighted average. I did not know, so I did not undertake to give the answer to this question.

In support of their 75% burden and 5% G. & A., Security Signals will need to submit a current balance sheet with a detailed income statement, showing manufacturing accounts and details of G. & A. It is also required that an analysis of net sales for the period reported upon, both Government and commercial, be attached.

By copy of this memo, I will ask Security Signals to have this material made up as promptly as possible for review and subsequent submission.

We are informed by the Ordnance District that this detail is a requirement, but that it will not preclude the forwarding of our bid to OAC for final evaluation; but it is positive that if Security is the winner that the information must be at hand before any award would be made.

In order to keep all hands happy, will you please instruct that Bill of Material and Labor Analysis be forwarded to Cincinnati Ordnance District, ~~copy to me~~, just as quickly as possible? Please address Mr. John C. Walley with a carbon copy for Mr. Raymond Bard at Cincinnati Ordnance District, ~~and in your cover letter, please make statement that the terms and conditions, as we outlined them in our letter of January 3, are effective against the current proposal.~~ will require

FML/e
cc: Thomas Dutcher, Jr.
Security Signals, Inc.

F. M. Laurence

SSI 1196

ED_001803A_00006579-00011

Detail from W must come here, to be transcribed to Sec. Sig. letterhead.

National Fireworks Ordnance Corporation
INTER-OFFICE MEMORANDUM
WEST HANOVER, MASS.



DATE: April 6, 1955

TO Frank M. Laurence, Cordova, Tenn.

FROM H. H. Wolfert

SUBJECT

I am enclosing a rough sketch of the proposed area that the Board of Directors have authorized me to convey to the Dutchers as part of an overall agreement.

You will note that I have excluded Buildings 40 and 41 from the plan. After a survey of the plant and overall requirements as they are shaping up, we find that it is impossible at this time to commit ourselves to relinquish Building 41 particularly. Will you please explain this to Tom and tell him that possibly at a later date when conditions may be changed we can bring that left hand boundary up to Macon Road.

If this is satisfactory to all concerned, please arrange for a surveyor to make an accurate plan so that the legal instruments may be drawn.


H. H. Wolfert

W:h

enc.

SSI 1194

To: Forsgren, Lee[Forsgren.Lee@epa.gov]; Fotouhi, David[fotouhi.david@epa.gov]; Sarah Greenwalt (greenwalt.sarah@epa.gov)[greenwalt.sarah@epa.gov]
From: Bodine, Susan
Sent: Tue 10/17/2017 7:03:46 PM
Subject: RE: Meeting with NAHB
102417-NHAB Mtg.docx

Attached is a draft memo to SP on the meeting.

Ex. 5 - Deliberative Process

From: Forsgren, Lee
Sent: Tuesday, October 17, 2017 1:22 PM
To: Bodine, Susan <bodine.susan@epa.gov>
Cc: Fotouhi, David <Fotouhi.David@epa.gov>; Greenwalt, Sarah <greenwalt.sarah@epa.gov>
Subject: Re: Meeting with NAHB

Susan

I will try very hard to attend.

Lee

Sent from my iPhone

On Oct 17, 2017, at 1:20 PM, Bodine, Susan <bodine.susan@epa.gov> wrote:

We are hosting 10 representatives of the NAHB in the Alm Room on October 24, from 10 am to 12 pm. The Administrator will be joining us from 11-11:30. We will have representatives from the 10 regions in the room, mostly enforcement directors but also some RAs or DRAs.

The meeting is a follow on from the Administrator's meeting with homebuilders in Colorado Springs.

They intend to bring up:

Ex. 5 - Deliberative Process

Their asks will be:

Ex. 5 - Deliberative Process

FYSA – attached are their Reg Reform comments, which address some of these issues.

Let me know whom we should invite to the meeting.

Ex. 5 - Deliberative Process

Ex. 5 - Deliberative Process

Susan

<NAHB-comments-to-EPA-regarding-evaluation-of-existing-regulations-20170515.pdf>

To: Mackey, Cyndy[Mackey.Cyndy@epa.gov]
From: Bodine, Susan
Sent: Tue 10/17/2017 6:50:45 PM
Subject: FW: Assistance with EPA Issue
[EPA Letter 10-10-2017.pdf](#)

Cyndy, can you have your folks ask the Region about the issue raised in this letter? They are copied on the letter.

From: Greaves, Holly
Sent: Tuesday, October 17, 2017 2:38 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Fotouhi, David <Fotouhi.David@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: RE: Assistance with EPA Issue

Hello, just following up on this letter. Is this something you would be able to help me with? If not, is there someone else that can assist? Thanks!

From: Greaves, Holly
Sent: Thursday, October 12, 2017 2:23 PM
To: Bodine, Susan <bodine.susan@epa.gov>; Fotouhi, David <fotouhi.david@epa.gov>; Traylor, Patrick <traylor.patrick@epa.gov>
Subject: FW: Assistance with EPA Issue

Good afternoon,

I received the email below from a staffer to Congressman Kustoff related to a consent decree between EPA and a PRP. The attached letter is actually addressed to DOJ ENRD, whom I assume we are working with on this matter.

Are any of you familiar with this matter and/or is it something that you can assist with? It sounds as though our region 4 office has been taking the lead.

Thanks,

Holly

From: Hogin, Andrew [<mailto:Andrew.Hogin@mail.house.gov>]
Sent: Thursday, October 12, 2017 1:30 PM
To: Greaves, Holly <greaves.holly@epa.gov>
Subject: FW: Assistance with EPA Issue

Hi Holly – the below email is from the company owner that the attached docs pertain to. Long story short – they have been dealing with an EPA issue on remediation of OU2 runoff that as I understand it dates back to a DOD contractor that used the site in the 1950s.

I spoke to the owner this am and she said that they have been paying bills to the EPA for administration fees to the tune of \$100K a year! Most recently they were billed for \$1.2m for oversight and overhead fees? This is all coming out of the Atlanta office and no actual employee has been to the site.

The EPA now threatening to issue a unilateral order against their company. So, I've reached out to see if you can help expedite this to the right person – at this point that's all I know to do. I appreciate your help on this. Hope you are doing well and let's catch up soon.

Thanks

Andrew Hogin, Legislative Assistant

Office of Congressman David Kustoff

508 Cannon Bldg. Washington D.C. 20515

(o) 202-225-4714

(c) 615-578-1778

From: Susan Lee <slee@securitysignalsinc.com>
Date: Tuesday, October 10, 2017 at 10:53 AM
To: "Hogin, Andrew" <Andrew.Hogin@mail.house.gov>
Cc: "blee@securitysignalsinc.com" <blee@securitysignalsinc.com>
Subject: Assistance with EPA Issue

Andrew:

We were given your name as a contact in Representative Kustoff's office for matters regarding the EPA.

As the attached correspondence will explain, our Cordova plant in Steve Cohen's district is the subject property of a long term EPA investigation; however, we have a second facility located at 9509 Highway 64, Somerville 38068 in Representative Kustoff's district which will be directly impacted by failure to reach a fair resolution in this case.

We have worked with the EPA for over fifteen years on the Cordova site and, until recently, felt as if we had an agreed upon path toward remediation. That perceived course has taken a turn for the worse, with the EPA now threatening to issue a unilateral order against our company.

We met with Steve Cohen on Friday, who suggested we should also contact Representative

Kustoff for joint involvement on this issue. We would appreciate any help your office can provide in this regard.

Our thanks for your consideration of this matter.

Susan D. Lee

President

Security Signals, Inc.

(901) 754-7228 Phone

(901) 755-9612 Fax

slee@securitysignalsinc.com